



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED] MI [REDACTED]

Date Mailed: November 18, 2022
MOAHR Docket No.: 22-004730
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

HEARING DECISION

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 42 CFR 438.400 to 438.424; 45 CFR 99.1 to 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on November 16, 2022. The Petitioner was represented by her daughter and Authorized Hearings Representative, [REDACTED]. The Department of Health and Human Services (Department) was represented by Karl Norgan, Eligibility Specialist.

ISSUE

Did the Department properly decrease Petitioner's Food Assistance Program (FAP) benefits rate?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Petitioner is an ongoing FAP recipient and for September 2022, Petitioner received \$250.00 in FAP benefits based upon \$0.00 income and \$0.00 expenses.
2. On [REDACTED] 2022, Petitioner submitted her Mid-Certification Contact notice which listed no changes in income or expenses.
3. While reviewing and certifying Petitioner's benefits, the Department discovered via the State Online Query (SOLQ), an interface with the Social Security Administration accessible by the Department to aid it in determining a client's Social Security Benefit and Medicare participation, that Petitioner was receiving \$[REDACTED] in Supplemental Security Income (SSI) benefits. As of October, Petitioner was actively receiving the SSI benefit.

4. On September 30, 2022, the Department issued a Notice of Case Action to Petitioner informing her that her FAP benefits were being reduced to \$170.00 effective November 1, 2022.
5. On October 13, 2022, the Department received Petitioner's request for hearing disputing the reduction in her FAP benefit rate.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The Department (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-119b, and Mich Admin Code, R 400.3001-.3011.

In this case, Petitioner disputes the Department's reduction and calculation of her FAP benefit rate. To determine whether the Department properly calculated Petitioner's FAP benefit rate, the evaluation first starts with consideration of all countable earned and unearned income available to the group. BEM 500 (April 2022), pp. 1-5. The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Prospective income is income not yet received but expected. BEM 505 (November 2021), p. 1. In prospecting income, the Department is required to use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month, discarding any pay if it is unusual and does not reflect the normal, expected pay amounts. BEM 505, pp. 4-9. A standard monthly amount must be determined for each income source used in the budget. BEM 505, pp. 8-9. Petitioner receives a gross monthly SSI check of \$[REDACTED]; therefore, there is no need to further standardize her income. No other evidence was presented indicating that Petitioner had other sources of income. Therefore, Petitioner's total gross income is \$[REDACTED] (rounding down to the nearest dollar).

After consideration of income, the Department considers all appropriate deductions and expenses. Petitioner is disabled and therefore, she is eligible for the following deductions to income:

- Dependent care expense.
- Medical expense deduction
- Excess shelter deduction.

- Court ordered child support and arrearages paid to non-household members.
- Standard deduction based on group size.

BEM 550 (January 2022), pp. 1; BEM 554 (October 2021), p. 1; BEM 556 (October 2021), pp. 3-6.

The Department properly budgeted the standard deduction of \$193.00. RFT 255 (October 2022), p. 1; BEM 556, p. 4. No evidence was presented that Petitioner has dependent care or child support expenses. In addition, no evidence was presented of any verified medical expenses. Per policy, “an SDV group that has a verified one-time or ongoing medical expense(s) of more than \$35 for an SDV person(s) will receive the Standard Medical Deduction (SMD). The SMD is \$165. If the group has actual medical expenses which are more than the SMD, they have the option to verify their actual expenses instead of receiving the SMD.” BEM 554, p. 9.

After consideration of each of these deductions, Petitioner’s Adjusted Gross Income (AGI) would be calculated by subtracting each item from the gross income for a total of \$[REDACTED].

Once the AGI is calculated, the Department must then consider the Excess Shelter Deduction. BEM 554, p. 1; 7 CFR 273.9(d)(6). The Excess Shelter Deduction is calculated by adding Petitioner’s housing costs to any of the applicable standard deductions and reducing this expense by half of Petitioner’s AGI. BEM 556, pp. 4-7; 7 CFR 273.9(d)(6)(ii). Petitioner is not responsible for any housing costs or utility expenses. If responsible for utilities, the heat and utility standard deduction (H/U) covers all heat and utility costs including cooling except actual utility expenses (repairs or maintenance). BEM 554, p. 16. When a client is not responsible for heating and/or cooling costs, the client may receive utility standard deductions for non-heat electric, water and/or sewer, telephone, cooking fuel, and trash as applicable. BEM 554, p. 22-25. The expenses and factors outlined here are the only expenses considered for purposes of calculating the FAP budget and determining eligibility. After each item is considered, Petitioner’s total housing cost is added together (\$0.00) and reduced by 50% of Petitioner’s AGI resulting in a negative number; therefore, she is not eligible for the excess shelter deduction. *Id.*

Since Petitioner does not have an excess shelter cost, her AGI equals her Net Income or \$[REDACTED]. *Id.* Finally, Petitioner’s Net Income is compared against the Food Assistance Issuance Tables found in RFT 260 for a monthly FAP benefit rate of \$170.00. BEM 556, p. 6; RFT 260 (October 2022), p. 6.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it calculated Petitioner’s FAP benefit rate.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.



AMTM/cc

Amanda M. T. Marler

Administrative Law Judge

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Office of Administrative Hearings and Rules
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

Via-Electronic Mail :

Interested Parties

MDHHS-Macomb-20-Hearings
BSC4-HearingDecisions
D. Sweeney
M. Holden
MOAHR

Via-First Class Mail :

Petitioner

[REDACTED]
MI [REDACTED]

Authorized Hearing Rep.

[REDACTED]
MI [REDACTED]