



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

[REDACTED]  
[REDACTED]  
[REDACTED] MI [REDACTED]

Date Mailed: March 8, 2023  
MOAHR Docket No.: 23-000598  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Danielle Nuccio**

### **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 March 1, 2023. The Petitioner appeared and represented herself, with assistance from her daughter, [REDACTED]. The Department of Health and Human Services (MDHHS) was represented by Sylvester Williams, Assistant Payments Supervisor.

### **ISSUE**

Did MDHHS properly calculate Petitioner's Food Assistance Program (FAP) budget to determine her monthly amount of benefits?

### **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 was an ongoing recipient of FAP for a group size of one. Petitioner is a senior (over 60 years old), disabled or disabled veteran (S/D/V) individual.
2. Petitioner receives monthly Retirement, Survivors, Disability Insurance (RSDI).
3. Effective January 1, 2023, Petitioner's monthly RSDI amount increased to \$[REDACTED].
4. On December 3, 2022, MDHHS issued a Notice of Case Action to Petitioner informing her that she is eligible for FAP benefits in the amount of \$77.00 monthly for a group size of one, effective January 1, 2023 (Exhibit A, pp. 11-15).

5. On January 25, 2023, MDHHS received a verbal hearing request from Petitioner disputing the monthly amount of FAP benefits that she is eligible to receive (Exhibit A, pp. 3-6).

### **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.

Petitioner verbally requested a hearing to dispute the determination of her monthly FAP benefit amount<sup>1</sup>. Petitioner was approved to receive \$77.00 per month in FAP benefits.

FAP benefit amounts are determined by a client's net income. BEM 556 outlines the factors and calculations required to determine a client's net income. FAP net income factors group size, countable monthly income, and relevant monthly expenses. MDHHS presented budget documents listing the calculations to determine Petitioner's FAP eligibility (see Exhibit A, pp. 9-10). During the hearing, all relevant budget factors were discussed with Petitioner.

All countable earned and unearned income available to the client must be considered in determining a client's eligibility for program benefits. BEM 500 (April 2022), pp. 1-5. Petitioner reported that the only income that she receives is RSDI. RSDI is a federal benefit administered by the Social Security Administration (SSA) that is available to retired and disabled individuals, their dependents, and survivors of deceased workers. MDHHS counts the gross benefit amount of RSDI as unearned income. BEM 503 (January 2023), p. 29. MDHHS calculated that Petitioner receives \$[REDACTED] in monthly RSDI, effective January 1, 2023. Petitioner confirmed that this amount is correct. Therefore, MDHHS properly budgeted Petitioner's income amount.

MDHHS uses certain expenses to determine net income for FAP eligibility and benefit levels. For groups containing S/D/V members, such as Petitioner's, MDHHS considers: a standard deduction, childcare, court-ordered child support and arrearages paid to

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<sup>1</sup> Clients may verbally request hearings to dispute ongoing FAP eligibility. BAM 600 (March 2021) p. 2.

non-household members, medical expenses above \$35 for each S/D/V group member(s), and an uncapped excess shelter expense. BEM 554 (October 2022) p. 1.

Petitioner's FAP benefit group size of one justifies a standard deduction of \$193.00. RFT 255 (October 2022), p. 1. MDHHS properly included the standard deduction in Petitioner's household budget.

A S/D/V group that has a verified one-time or ongoing medical expense(s) of more than \$35.00 for a S/D/V person(s) will receive the Standard Medical Deduction (SMD). The SMD is \$165.00. 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. Petitioner did not submit for consideration out-of-pocket medical expenses. Petitioner was advised that she may submit any out-of-pocket medical expenses to MDHHS for their consideration in Petitioner's household budget in the future. Therefore, MDHHS properly counted Petitioner's medical expenses at \$0.00.

Petitioner testified that she does not pay any dependent care or child support expenses. Thus, MDHHS properly counted the group's non-shelter expenses to be \$193.00.

MDHHS calculated Petitioner's housing expenses from her report of \$790.13, the total of her mortgage payment and housing association fee. Petitioner confirmed that this amount was correct. Petitioner pays for her own utilities and was credited with a standard heating/utility (h/u) credit of \$620.00. RFT 255, p. 1. Generally, the h/u credit covers all utility expenses and is the maximum credit available. MDHHS only credits FAP benefit groups with an "excess shelter" expense. The excess shelter expense is calculated by subtracting half of the adjusted gross income from the total shelter obligation. Petitioner's excess shelter amount is \$714.00.

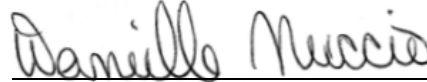
The FAP benefit group's net income is determined by subtracting the excess shelter expense from the group's adjusted gross income; doing so results in \$679.00 in net income for Petitioner's group. A chart is used to determine the proper FAP benefit issuance. RFT 260 (October 2022) p. 13. Based on Petitioner's group size and net income, Petitioner's proper FAP benefit issuance is \$77.00; the same issuance amount that was calculated by MDHHS. Thus, MDHHS properly determined Petitioner's FAP eligibility.

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 MDHHS acted in accordance with Department policy when it determined Petitioner to be eligible for \$77.00 in monthly FAP benefits.

**DECISION AND ORDER**

Accordingly, MDHHS' decision is **AFFIRMED**.

DN/mp



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**Danielle Nuccio**

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 :**

**DHHS**  
MDHHS-Oakland-6303-Hearings  
D. Sweeney  
M. Holden  
MOAHR  
BSC4

**Via-First Class Mail :**

**Petitioner**  
[REDACTED]  
[REDACTED]  
[REDACTED] MI [REDACTED]