



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: May 12, 2023  
MOAHR Docket No.: 23-001920  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Linda Jordan**

### **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 hearing was held on May 3, 2023. Petitioner appeared and represented herself. Hasem Hosny, Hearings Coordinator, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department).

### **ISSUE**

Did MDHHS properly determine Petitioner's Food Assistance Program (FAP) benefit 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 was an ongoing recipient of FAP benefits.
2. On February 22, 2023, MDHHS sent Petitioner a Notice of Case Action indicating that her FAP benefits decreased to \$314.00 per month for a FAP group of six (Exhibit A, p. 15). MDHHS budgeted \$3,675.00 in unearned income for the household (Exhibit A, p. 16).
3. On April 3, 2023, Petitioner filed a hearing request to dispute the reduction of her FAP benefits (Exhibit A, p. 4).

## **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. MDHHS 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, MDHHS decreased Petitioner's FAP benefit rate due to a change in her unearned income and shelter deduction. Petitioner disputed the reduction in her benefits and argued that the adoption subsidies that she received for her children should be excluded from the unearned income calculation.

To determine whether MDHHS properly calculated Petitioners' FAP benefit amount, all countable earned and unearned income available to the client must be considered. BEM 500 (April 2022), pp. 1-5. MDHHS budgeted \$3,675.00 for Petitioner's unearned income based on Retirement, Survivors, Disability Insurance (RSDI), Supplemental Security Income (SSI), and foster care payments that Petitioner received on behalf of her foster children. The record shows that MDHHS budgeted \$728.00 per month in RSDI for Petitioner, \$206.00 in SSI for Petitioner (plus \$14.00 State SSI Payment (SSP)), \$1,241.00 for RSDI received by another household member, \$914.00 per month in SSI received by another household member (plus \$14.00 State SSI Payment (SSP)), and \$558.63 per month in foster care payments (Exhibit A, pp. 6, 7-10). The total of this unearned income equaled \$3,675.00, dropping the cents. There was no evidence of earned income.

Petitioner did not dispute the amount that MDHHS budgeted for the RSDI and SSI payments received by household members. She disputed the inclusion of the foster care payments that she received on behalf of her foster care children. For FAP, MDHHS must include foster care payments as unearned income for the household if the foster parent requests FAP for the foster child. BEM 503 (January 2023), p. 5. A foster parent may choose whether to request FAP on behalf of a foster child. *Id.* If a foster parent does not request FAP for the child, MDHHS does not consider the child's needs or income in the FAP eligibility determination. *Id.* The FAP group may choose to include or exclude the foster child as a group member. BEM 212 (January 2022), p. 2. If excluded, the foster child is not eligible for FAP as a separate group and the foster care payment is not income to the group. *Id.* The record shows that the foster children were included as group members and there is no evidence that Petitioner requested that they be excluded. Therefore, MDHHS properly included the foster care payments as earned income.

After income is calculated, MDHHS must determine applicable deductions. Petitioner's FAP group is considered a Senior/Disabled/Disabled Veteran (SDV) group. BEM 550 (January 2022), p. 1. SDV groups are eligible for the following deductions.

- Earned income deduction
- Dependent care expense
- Court ordered child support and arrearages paid to non-household members
- Standard deduction based on group size
- Medical expenses for SDV members that exceed \$35
- Excess shelter up to the maximum in RFT 255

BEM 550, p. 1; BEM 554 (April 2023), p. 1; BEM 556 (January 2023), p. 3.

No evidence was presented that Petitioner had earned income, dependent care expenses, court-ordered child support or verified medical expenses. MDHHS budgeted the standard deduction for a household of six, which was \$258.00. RFT 255 (February 2023), p. 1. To calculate Petitioner's Adjusted Gross Income (AGI), the standard deduction of \$258.00 was subtracted from the countable income of \$3,675.00, which equaled \$3,417.00.

Next, MDHHS is required to determine the excess shelter deduction. In calculating the excess shelter deduction of \$116.00, MDHHS considered Petitioner's verified housing expenses of \$1,200.00 and budgeted the heat and utility standard of \$624.00. BEM 554, pp. 14-15. MDHHS determined Petitioner's total shelter expense by adding together the verified housing expenses of \$1,200.00 and the heat/utility standard of \$624.00, which equaled \$1,824.00. To determine the excess shelter deduction, 50% of the AGI is subtracted from the total shelter amount. Subtracting 50% of Petitioner's AGI, or \$1,708.00, from Petitioner's total shelter amount of \$1,824.00 equals \$116.00. Petitioner did not dispute the amounts that MDHHS used to calculate her excess shelter deduction. Therefore, MDHHS properly determined that Petitioner's excess shelter deduction was \$116.00.

To determine Petitioner's net income for FAP, MDHHS subtracted the excess shelter deduction of \$116.00 from Petitioner's AGI of \$3,417.00, which equaled \$3,301.00. A household of six with a net income of \$3,301.00 is entitled to receive \$348.00 per month in FAP benefits. RFT 260 (October 2022), p. 46. MDHHS also presented evidence of a \$34.00 recoupment amount, which would bring Petitioner's FAP benefit rate to \$314.00 per month (Exhibit A, p. 13).

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 MDHHS acted in accordance with Department policy when it reduced Petitioner's FAP benefit rate.

**DECISION AND ORDER**

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



LJ/tm

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**Linda Jordan**  
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**

Dawn Tromontine  
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**Interested Parties**

M. Holden  
D. Sweeney  
BSC4

**Via-First Class Mail :**

**Petitioner**

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