



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
SUZANNE SONNEBORN
EXECUTIVE DIRECTOR

MARLON I. BROWN, DPA
DIRECTOR

[REDACTED] MI [REDACTED]

Date Mailed: May 23, 2024
MOAHR Docket No.: 24-004264
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Julia Norton

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 May 16, 2024. Petitioner was present and self-represented. The Department of Health and Human Services (Department) was represented by Avery Smith, Assistance Payment Supervisor.

ISSUE

Did the Department properly calculate 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. On [REDACTED] 2024, the Department received Petitioner's FAP application. Exhibit A, pp. 6-15.
2. Petitioner is [REDACTED] years old.
3. Petitioner listed no housing or utility expenses. Exhibit A, p. 15.
4. Petitioner listed no dependent care, medical, or child support expenses. Exhibit A, p. 12.
5. Petitioner receives [REDACTED] per month in Retirement, Survivors and Disability Insurance (RSDI) payments.

6. On March 14, 2024, the Department sent Petitioner a Notice of Case Action (NOCA) indicating Petitioner was approved for \$23.00 per month in FAP benefits for a group size of one, effective March 1, 2024 to January 31, 2026. Exhibit A, 29-33.
7. On April 5, 2024, the Department received Petitioner's hearing request disputing the amount of his monthly FAP benefit. Exhibit A, pp. 3-5.

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 disputed the Department's determination of his monthly 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 (October 2023), 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. The standardized income is determined by averaging the income received and multiplying it by 4.3 for amounts received weekly; by 2.15 for amounts received every two weeks; and adding amounts received twice a month. *Id.* Because Petitioner receives RSDI, there is no need to further standardize his income as his income is already received on a monthly basis of [REDACTED]. Petitioner did not dispute this amount. Department properly considered Petitioner's unearned income.

After consideration of income, the Department considers all appropriate deductions and expenses. Based on his age, Petitioner is a senior/disabled/disabled veteran (SDV) member of his FAP group. BEM 550 (February 2024), pp. 1-2. For SDV groups with

only unearned income, the group is eligible for the following deductions to income:

- Standard deduction based on group size.
- Medical expense deduction.
- Dependent care expense.
- Court ordered child support and arrearages paid to non-household members.
- Excess shelter deduction.

Id.; BEM 554 (February 2024), p. 1; BEM 556 (May 2024), p.1.

The Department properly budgeted the standard deduction of \$198.00 based on Petitioner's FAP group size of one. RFT 255 (October 2023), p. 1. Petitioner is an SDV group member, but testified he does not have any monthly medical expenses. The Department properly did not include a medical expense deduction. No evidence was presented that Petitioner had either dependent care expenses or court ordered child support paid to non-household members and therefore the budget properly showed no deductions for these items. Petitioner's Adjusted Gross Income (AGI), calculated by subtracting the foregoing applicable deductions from the gross income of [REDACTED] is [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 utility standard deductions and reducing this expense by half of Petitioner's AGI. BEM 556, pp. 5-8; 7 CFR 273.9(d)(6)(ii). Petitioner's application indicated he had no monthly housing costs and was not responsible for any utilities. During his interview, Petitioner indicated he was responsible for his telephone expense and the Department provided him the \$31.00 standard telephone deduction. RFT 255, p. 1. Petitioner's total housing expense is \$31.00, the sum of his rent (\$0.00) and telephone deduction (\$31.00). This amount, reduced by 50% of Petitioner's AGI [REDACTED] results in an excess shelter deduction of \$0.00. BEM 556, pp. 5-6. During the hearing, Petitioner testified that he has a monthly rental expense of \$900.00 but had not reported this change to the Department. Petitioner was advised that if he reports this expense to the Department, it may affect future FAP benefits.

To determine Petitioner's net income, Petitioner's excess shelter deduction of \$0.00 is subtracted from his [REDACTED] AGI to equal his net income of [REDACTED]. Petitioner's net income is compared against the Food Assistance Issuance Tables found in RFT 260 for a monthly FAP benefit rate of \$23.00. BEM 556, p. 6; RFT 260 (October 2023), p. 4. Therefore, the Department properly calculated Petitioner's FAP benefit rate.

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 the Department acted in accordance with Department policy when it calculated Petitioner's FAP benefit rate at \$23.00 per month.

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 determined Petitioner's monthly FAP benefit rate.

DECISION AND ORDER

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



JN/ml

Julia Norton
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

Yaita Turner

Oakland County Southfield District III

25620 W. 8 Mile Rd

Southfield, MI 48033

MDHHS-Oakland-6303-Hearings@michigan.gov

Interested Parties

BSC4

M Holden

B Cabanaw

N Denson-Sogbaka

MOAHR

Via First Class Mail:

Petitioner

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