



STATE OF MICHIGAN

GRETCHEN WHITMER
GOVERNOR

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: June 25, 2024
MOAHR Docket No.: 24-004578
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: L. Alisyn Crawford

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 June 20, 2024. Petitioner was represented by her Authorized Hearing Representative (AHR), [REDACTED]. The Department of Health and Human Services (Department) was represented by Lori Turner, Eligibility Specialist.

ISSUE

Did the Department properly determine Petitioner's Food Assistance Program (FAP) benefit amount?

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.
2. Petitioner receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the amount of [REDACTED] (Exhibit A, pp. 7, 14).
3. Petitioner receives 24-hour person care services in a supported community living program. (Exhibit 1, p. 2). Petitioner pays recurring monthly medical expenses for personal care services in the monthly amount of \$1,649 as of February 1, 2024.
4. On March 20, 2024, the Department sent Petitioner a Notice of Case Action (NOCA) informing her that effective April 1, 2024 her FAP benefit amount would be decreased to \$23 monthly. (Exhibit A, pp. 6-13).

5. On March 26, 2024, Petitioner requested a hearing to dispute the Department's action regarding her FAP benefit amount. (Exhibit A, p. 3).
6. On March 26, 2024, Petitioner submitted to the Department documentation of excess medical expenses for 2024 in the amount of \$16,251. (Exhibit 1, p. 2).

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 requested a hearing to dispute a reduction in FAP benefits. Following the submission of her redetermination, Petitioner's monthly FAP benefit amount went from \$291 to \$23. (Exhibit A, p. 3). The Department contends that the FAP benefit amount is correct based on Petitioner's monthly income from RSDI and all allowable deductions. (Exhibit A, p. 1).

The AHR contends that the Department did not consider Petitioner's medical expenses in calculating her FAP budget that she identified in the redetermination and provided written verification of via letter dated February 1, 2024.

To determine whether the Department properly calculated Petitioner's FAP benefit amount, all countable earned and unearned income available to client must be considered. BEM 500 (April 2022), pp. 1-5. The Department budgeted [REDACTED] in unearned income for Petitioner from her monthly RSDI benefits.

After income is calculated, the Department must determine applicable deductions. Because Petitioner has a disability, her FAP group is considered a senior/disabled/disabled veteran (SDV) group. BEM 550 (February 2024), p. 1. An SDV FAP group is one which has a SDV member. A disabled person is defined as a person who receives a federal, state, or local public disability retirement pension and the disability is considered permanent under the Social Security Act. BAM 550, p. 1. The

Department acknowledged that Petitioner's FAP group was an SDV group at the hearing. 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 (February 2024), p. 1; BEM 556 (March 2024), p. 4.

No evidence was presented that Petitioner had earned income, dependent care expenses, or court-ordered child support. The Department budgeted the standard deduction based on a group-size of one, which was \$198.00. RFT 255 (October 2023), p. 1.

Petitioner's FAP group was entitled to deductions for verified medical expenses that the SDV member incurred in excess of \$35. BEM 554, p. 1. The Department acknowledged that it did not budget any medical expenses for the FAP group. At the hearing, Petitioner's AHR credibly testified that Petitioner incurs medical expenses and that she informed the Department of those expenses.

The Department is required to obtain verification from clients when it is required by policy or information is unclear or incomplete. BAM 130 (January 2023), p. 1. To obtain verification, the Department must tell the clients what verification is required, how to obtain it and the due date. BAM 130, p. 1. The Department is required to use a Verification Checklist (VCL) to request verification from clients. BAM 130, p. 1. Clients are required to obtain the requested verification, but the local office must help if they need and request help. BAM 130, p. 3. If neither the client nor the local office can obtain verification despite a reasonable effort, the Department is required to use the best available information. BAM 130, p. 3. Verifications are considered timely if they are received by the date, they are due. BAM 130, p. 7. The Department is required to send a negative action notice if the time period has elapsed, and the client has not made a reasonable effort to provide the requested verification. BAM 130, p. 7. However, if a client contacts the Department prior to the due date and requests an extension or assistance in obtaining the verification, the Department must assist the client. BAM 130, p. 7.

In this case, Petitioner was due for redetermination for a benefit period beginning April 1, 2024. (Exhibit A, pp. 14-15). The Department acknowledges that Petitioner submitted her redetermination timely. Petitioner's AHR testified that she submitted proof of medical expenses to the Department prior to this hearing request and three times following the hearing request. Upon reviewing Petitioner's case file during the hearing, the Department discovered the proof of medical expenses were indeed received but noted that the proof of medical expenses had not yet been processed and

acknowledged that it still had not applied the expenses to Petitioner's FAP eligibility. Therefore, it appears the Department did receive proof of Petitioner's medical expenses but mistakenly failed to process the provided proof of medical expenses and did not apply those medical expenses to Petitioner's FAP budget. Based on the record, Petitioner's AHR informed the Department of Petitioner's medical expenses, but the medical expenses were not budgeted. No evidence was presented that the Department sent Petitioner a verification request to verify the medical expenses. Policy requires the Department to verify information regarding an eligibility factor when the information is unclear or incomplete. It did not do so in this case.

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 did not act in accordance with Department policy when it failed to process the medical expense verification provided by Petitioner in her FAP budget.

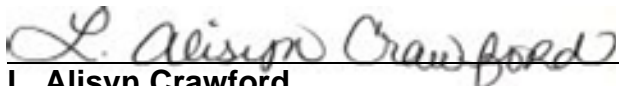
DECISION AND ORDER

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

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Redetermine Petitioner's eligibility for FAP benefits from April 1, 2024 ongoing to include verified medical expenses;
2. Issue FAP supplements to Petitioner for any benefits she was eligible to receive but did not, if any, from April 1, 2024, ongoing, in accordance with Department policy; and
3. Notify Petitioner and her AHR of its decision in writing.

LC/ml


L. Alisyn Crawford
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
Tara Roland 82-17
Wayne-Greenfield/Joy-DHHS
8655 Greenfield
Detroit, MI 48228
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Interested Parties
BSC4
M Holden
B Cabanaw
N Denson-Sogbaka
MOAHR

Via First Class Mail:

Authorized Hearing Rep.

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

Petitioner

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