



GRETCHEN WHITMER
GOVERNOR

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

MARLON BROWN
DIRECTOR

[REDACTED]

Date Mailed: June 28, 2024
MOAHR Docket No.: 24-005473
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 18, 2024, from Lansing, Michigan. [REDACTED] the Petitioner, appeared on her own behalf. The Department of Health and Human Services (Department) was represented by Priya Johnson, Assistance Payments Supervisor (APS).

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp, 1-18.

ISSUE

Did the Department properly determine Petitioner's eligibility for the Food Assistance Program (FAP)?

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 receiving FAP with a monthly benefit amount of \$[REDACTED] (Exhibit A, pp. 1 and 10)
2. As of March 2024, Petitioner receives Retirement, Survivors, and Disability Insurance (RSDI) benefits in the amount of \$[REDACTED] monthly. (Exhibit A, pp. 6-9)
3. The Department updated Petitioner's case to include her income from RSDI benefits, which was previously not entered. (Exhibit A, pp. 1 and 10-11)

4. On May █ 2024, a Notice of Case Action was issued to Petitioner indicating the FAP benefit amount would be reduced to \$█ monthly. (Exhibit A, pp. 12-18)
5. On May 10, 2024, Petitioner filed a hearing request contesting the Department's action. (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.

The Department considers the gross benefit amount of Social Security Administration issued Retirement Survivors and Disability Insurance (RSDI) as unearned income. BEM 503, April 1, 2024, p. 30.

For FAP, a shelter expense is allowed when the FAP group has a shelter expense or contributes to the shelter expense. BEM 554, (February 1, 2024), p. 13. The heat/utility (h/u) standard covers all heat and utility costs including cooling, except actual utility expenses, for example, installation fees etc. FAP groups that qualify for the h/u standard do not receive any other individual utility standards. FAP groups whose heat is included in their rent may still qualify for the h/u standard. Some additional ways include but are not limited to, receipt of the Home Heating Credit (HHC) or a Low Income Home Energy Assistance Payment (LIHEAP). The amount of either payment must be greater than \$20 in the month of application or in the immediately preceding 12 months prior to the application month. BEM 554, pp. 16-17. FAP groups who pay for cooling (including room air conditioners) are eligible for the h/u standard if, they have the responsibility to pay for non-heat electric. BEM 554 p. 18. FAP groups not eligible for the h/u standard who have other utility expenses or contribute to the cost of other utility expenses are eligible for the individual utility standards. Use the individual standard for each utility the FAP group has responsibility to pay. BEM 554 p. 22.

The Department can also consider verified allowable medical expenses of a senior/disabled/veteran (SDV) member of the FAP group. BEM 554, pp. 9-13.

In this case, Petitioner's income from RSDI benefits was \$█ beginning March 2024. (Exhibit A, pp. 6-9). The Department properly updated the case to include

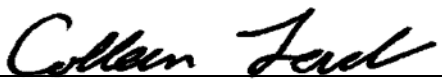
Petitioner's RSDI income in the FAP budget. Petitioner also confirmed that she did not have any shelter or utility expenses at that time. Petitioner indicated her mother wants her to pay rent. (Petitioner Testimony). Petitioner should report this change to the Department if and when it occurs. The APS indicated that Petitioner was approved for the Medicare Savings Program (MSP) as of March 1, 2024. Accordingly, there would be no medical expense for the Medicare Part B premium. (APS Testimony). Overall, the evidence supports the Department's determination that Petitioner was currently eligible for FAP benefits in the amount of \$[REDACTED] 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 eligibility for FAP.

DECISION AND ORDER

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

CL/dm



Colleen Lack
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
MDHHS-Oakland-6303-
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BSC4HearingDecisions

MOAHR

Via-First Class Mail :

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]