



GRETCHEN WHITMER
GOVERNOR

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

MARLON BROWN
DIRECTOR

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Date Mailed: June 27, 2024
MOAHR Docket No.: 24-005730
Agency No.: ██████████
Petitioner: ██████████

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 June 24, 2024. Petitioner was present and self-represented. The Department of Health and Human Services (Department) was represented by Priya Johnson, Assistance Payment Supervisor.

ISSUE

Did the Department properly determine Petitioner’s eligibility for Food Assistance Program (FAP) 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 benefits of \$362.00 per month for a household size of two, including herself and her son (Son).
2. Petitioner is █████ and receives \$██████ per month from Supplemental Security Income (SSI) and \$██████ per quarter (\$██████ per month) from State SSI Payments (SSP).
3. Son is █████ resides with Petitioner, and receives \$██████ per month from SSI.
4. On May 16, 2024, the Department received Petitioner’s completed mid-certification contact notice that reported increases to SSI, rent and utility expenses. Exhibit A, pp. 5-7.
5. On May 16, 2024, the Department received Petitioner’s request for hearing disputing the Department’s mid-certification contact notice. Exhibit A, pp. 3-4.

6. On May 20, 2024, the Department sent Petitioner a Notice of Case Action (NOCA) informing her she was approved for FAP benefits of \$353.00 per month effective July 1, 2024 to June 30, 2025 for a household size of two. Exhibit A, pp. 8-12.
7. At the hearing, Petitioner disputed the unearned income amounts budgeted by the Department.

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 unearned income amounts the Department budgeted when determining the household's monthly FAP benefit amount of \$353 for July 2024 ongoing.

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 and Son receive SSI (\$████████ total for both) and Petitioner receives SSP (\$████████ per month) there is no need to further standardize their income as the income is already received on a monthly basis for a total of \$████████. At the hearing, Petitioner confirmed the SSI monthly amounts and acknowledged her receipt of two quarterly SSP payments. The Department did not present evidence that Son received

quarterly SSP payments and did not budget any SSP income for Son. Petitioner disputed an Unearned Income Notice the Department sent her about receipt of \$225.00 from ██████████ Bank, NA. Exhibit 1, p. 39. However, the Department explained it did not include the \$225.00 in Petitioner's FAP budget. The Department properly considered Petitioner and Son's unearned income for a total monthly unearned income of \$██████████.

After consideration of income, the Department considers all appropriate deductions and expenses. Based on her receipt of SSI, Petitioner is a senior/disabled/disabled veteran (SDV) member of her FAP group. BEM 550 (February 2024), pp. 1-2; 6. 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 two. RFT 255 (October 2023), p. 1. Petitioner pays a monthly \$5.00 prescription copay, and this was reported on her mid-certification notice. SDV members that incur medical expenses over \$35.00 monthly receive the greater of the standard medical deduction of \$165.00 or, if actual expenses exceed \$200.00, actual verified medical expenses minus \$35.00. Petitioner's reported monthly medical expenses do not exceed \$35.00, so the Department properly did not budget a deduction for medical expenses. BEM 554 (February 2024), p. 9. Petitioner does not have either dependent care expenses or court ordered child support paid to non-household members and therefore the Department properly did not budget deductions for these items. Petitioner's Adjusted Gross Income (AGI), calculated by subtracting the foregoing applicable deductions from the gross income of \$██████████, is \$1,702.00.

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 reported, and the Department budgeted, housing expenses of \$1,268.00 per month. However, Petitioner testified that the monthly rent included renter's insurance. Petitioner testified her monthly rent amount without the renter's insurance is \$1,255.00. Renter's insurance is not an allowable housing expense. BEM 554, p.15. The Department should have budgeted the \$1,255.00 figure. However, the error was in Petitioner's favor. As such, the error was harmless. The Department provided Petitioner the \$680.00 heat and utility (H/U) standard deduction, which is the most favorable utility standard available to FAP recipients. RFT 255, p. 1. Petitioner's total shelter expense is \$1,948.00, the sum of her housing expenses (\$1,268.00) and H/U deduction (\$680.00). This amount, reduced by \$851.00 (which is 50% of Petitioner's \$██████████ AGI), results in an excess shelter deduction of \$1,097.00. BEM 556, pp. 5-6.

To determine Petitioner's net income, Petitioner's excess shelter deduction of \$1,097.00 is subtracted from her \$[REDACTED] AGI to equal her 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 \$353.00. BEM 556, p. 6; RFT 260 (October 2023), p. 9. 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 \$353.00 per month.

DECISION AND ORDER

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

JN/cc



Julia Norton
Administrative Law Judge

