



GRETCHEN WHITMER  
GOVERNOR

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

MARLON BROWN  
DIRECTOR

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Date Mailed: July 26, 2024  
MOAHR Docket No.: 24-007282  
Agency No.: [REDACTED]  
Petitioner: [REDACTED] [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Ellen McLemore**

### **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 July 24, 2024, via teleconference. Petitioner was present and was unrepresented. The Department of Health and Human Services (Department) was represented by Priya Johnson, Assistance Payments Supervisor.

### **ISSUE**

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

### **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 FAP recipient.
2. The Department discovered that it had improperly budgeted Petitioner's medical expenses. The Department conducted a review of Petitioner's FAP eligibility.
3. Petitioner was the sole member of his household.
4. Petitioner had unearned income in the form of Retirement, Survivors and Disability Insurance and a monthly pension in the gross amount of \$ [REDACTED] per month.
5. On June [REDACTED] 2024, the Department sent Petitioner a Notice of Case Action informing him that he was eligible for FAP benefits in the monthly amount of \$ [REDACTED] effective July 1, 2024, ongoing (Exhibit A, pp. 14-20).

6. On June 21, 2024, Petitioner submitted a request for hearing disputing the Department's actions.

### **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, the Department testified that Petitioner has a monthly in-home help medical expense. However, the Department stated that it was discovered that it was improperly budgeting the expense twice, resulting in a medical expense of \$█████ per month (Exhibit A, pp. 6-8). The Department corrected the error and provided Petitioner's with a monthly medical expense of \$█████ which was the actual monthly cost of Petitioner's in-home help cost (Exhibit A, p. 10). As a result, Petitioner's FAP benefit amount decreased to \$█████ per month. The Department presented a FAP budget to establish the calculation of Petitioner's FAP benefit amount (Exhibit A, pp. 12-13).

All countable earned and unearned income available to the client must be considered in determining a client's eligibility for program benefits and group composition policies specify whose income is countable. BEM 500 (July 2017), pp. 1-5. For RSDI, the Department counts the gross benefit amount as unearned income. BEM 503 (January 2020), p. 28. Other retirement income includes annuities, private pensions, military pensions, and state and local government pensions. BEM 503, p. 29. The Department counts the gross benefit amount as unearned income. BEM 503, p. 29.

Per the budget provided, the Department included \$█████ in unearned income. Petitioner conceded that between his monthly pension and RSDI benefits, his gross unearned income is \$█████ per month. Therefore, the Department properly determined Petitioner's household income.

The deductions to income on the net income budget were also reviewed. There was evidence presented that the Petitioner's group includes a senior/disabled/veteran (SDV). BEM 550. Thus, the group is eligible for the following deductions to income:

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

- Medical deduction.

BEM 554 (January 2020), p. 1; BEM 556 (January 2020), p. 3.

Petitioner's FAP benefit group size of one justifies a standard deduction of \$198. RFT 255 (January 2020), p. 1. There was no evidence presented that Petitioner had any out-of-pocket dependent care or child support expenses. Therefore, the budget properly excluded any deduction for dependent care and child support.

As Petitioner qualifies as an SDV member, the group is entitled to deductions for verifiable medical expenses that the SDV member incurs in excess of \$35. BEM 554, p. 1. Policy requires that medical expenses must be verified at initial application and redetermination. BEM 554, p. 11. Medical expense changes can be reported and processed during the benefit period, but the expenses must be verified. BEM 554, p. 9.

At the hearing, Petitioner testified that his only out of pocket medical expenses are for his in-home help which is \$[REDACTED] per month and transportation costs to medical appointments. Petitioner stated that he did verify his in-home help costs but did not verify any transportation costs.

Per the budget provided, the Department provided Petitioner with a medical deduction of \$[REDACTED]. Because Petitioner has not verified the transportation costs, the Department acted in accordance with policy when it did not include any other medical expenses in Petitioner's FAP budget other than the in-home help costs. Petitioner's in-home help cost of [REDACTED] reduced by the \$[REDACTED] is \$[REDACTED]. Therefore, the Department properly determined Petitioner's medical expense deduction.

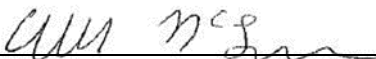
In calculating the excess shelter deduction of \$[REDACTED] the Department stated that it considered Petitioner's verified housing expense of \$[REDACTED] and that he was responsible for a monthly heating expense, entitling her to the heat/utility standard of \$680. BEM 554, pp. 14-15. The Department testified when calculating Petitioner's excess shelter amount, they added the total shelter amount and subtracted 50% of the adjusted gross income. Petitioner's excess shelter deduction was properly calculated at \$[REDACTED] per month.

The FAP benefit group's net income is determined by taking the group's adjusted gross income and subtracting the allowable excess shelter expense. After subtracting the allowable deductions, the Department properly determined Petitioner's adjusted gross income to be \$[REDACTED]. Petitioner's adjusted gross income subtracted by the \$[REDACTED] excess shelter deduction results in a net income of \$[REDACTED]. A chart listed in RFT 260 is used to determine the proper FAP benefit issuance based on the net income and group size. Based on Petitioner's net income and group size, Petitioner's FAP benefit issuance is \$[REDACTED]. Therefore, the Department properly calculated Petitioner's FAP benefit amount.

**DECISION AND ORDER**

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

EM/dm

  
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**Ellen McLemore**  
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  
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**MOAHR**

**Via-First Class Mail :**

**Petitioner**

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