



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: August 21, 2024  
MOAHR Docket No.: 24-008030  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Caralyce M. Lassner**

### **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 hearing was held by telephone on August 14, 2024. Petitioner appeared and represented himself. 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) benefits effective July 1, 2024?

### **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 for a household of one.
2. Petitioner is a recipient of Retirement, Survivors, and Disability Insurance (RSDI) and Supplemental Security Income (SSI) income totaling \$963 per month. (Exhibit A, p. 1).
3. Petitioner is [REDACTED] years old and pays \$174.70 per month for Medicare Part B.
4. On June 24, 2024, the Department received a completed redetermination application for FAP from Petitioner and verified Petitioner's income and shelter expenses. (Exhibit A, pp. 1, 12 – 13).

5. On July 10, 2024, the Department received a request for hearing from Petitioner disputing the amount of his FAP benefits. He also marked that he was seeking a hearing regarding cash assistance. (Exhibit A, pp. 3 – 5).
6. On July 13, 2024, the Department sent Petitioner a Low-Income Home Energy Assistance (LIHEAP) notice which advised Petitioner he would be receiving the federally funded LIHEAP payment in the amount of \$20.01 to assist with his energy costs. (Exhibit A, p. 6).
7. On July 13, 2024, the Department sent Petitioner a Notice of Case Action (NOCA) that approved Petitioner for FAP benefits in the amount of \$209 per month for a household of one effective July 1, 2024 ongoing. (Exhibit A, pp. 14 – 18).

### **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 the reduction of his approved FAP benefits. The Department approved Petitioner for reduced FAP benefits in the amount of \$209 per month for a household of one effective July 1, 2024 ongoing.

Petitioner indicated on his request for hearing that he was also requesting a hearing regarding Family Independence Program (FIP) benefits. After commencement of the hearing, Petitioner confirmed that he has not applied for FIP or other cash assistance. Therefore, Petitioner's request regarding FIP presented no hearable issue and the request for hearing on that program is dismissed. The hearing proceeded to address Petitioner's concerns regarding FAP.

To determine whether the Department properly calculated Petitioner's FAP benefit amount, the Department begins with the client's countable earned and unearned income available to the Petitioner. BEM 500 (April 2022), pp. 1 – 5. For social security income, the Department counts the gross benefit amount as unearned income. BEM 503 (April 2024), pp. 30 – 32, 35 – 37. In this case, the Department and Petitioner agreed that Petitioner's total social security income was \$963. (Exhibit A, p. 1).

After countable income is calculated, the Department must determine which deductions are available to Petitioner. Specific and limited deductions are permitted, depending on the source of countable income and the group's composition. Because Petitioner is over 60 years of age, he is considered a senior/disabled/veteran (SDV) household. BEM 550 (February 2024), p. 1. Households with SDV members with unearned income may be eligible for the following deductions only:

- Standard deduction based on group size.
- Dependent care expense.
- Medical expense deduction for medical expenses of the SDV member in excess of \$35.
- Court ordered child support and arrearages paid to non-household members.
- Excess shelter deduction.

BEM 554 (February 2024) p. 1; BEM 556 (March 2024) pp. 3 – 6.

Neither the Department nor Petitioner assert Petitioner has any dependent care expenses or court ordered child support expenses and therefore, no deduction for either of those expenses are reflected on the budget. There was also no dispute that Petitioner was entitled to, and received, a \$198 standard deduction from his countable income based on his one-person FAP group size. BEM 550, p. 1; RFT 255 (October 2023). (Exhibit A, p. 7).

SDV groups who verify one-time or ongoing medical expenses in excess of \$35 for the SDV member will receive a standard medical deduction of \$165 unless the group has actual medical expenses in a higher amount and verify those actual expenses. BEM 554, p. 9. During the hearing, the Department testified that, pursuant to the State Online Query (SOLQ), Petitioner pays Part B Medicare insurance premiums, and that the Department erred in failing to give Petitioner the standard medical deduction of \$165 for payment of those premiums. (See Exhibit A, p. 7). The Department testified that a) it corrected the error during the hearing and revised Petitioner's FAP budget, b) that the revised budget increased Petitioner's FAP benefits to \$283 for a household of one, and c) that it re-certified Petitioner's FAP benefits. However, the Department also noted that the Department's system automatically certified Petitioner's corrected benefits with an effective date of August 1, 2024.

Although the Department testified that it corrected the error during the hearing, and Petitioner's monthly FAP benefits increased to \$283 effective August 1, 2024, the effective date should have been July 1, 2024 ongoing, when the correction was certified. While the Department testified that it was submitting an internal request to have the issue resolved, as of the hearing, the issue was not resolved, and no supplements had been issued to Petitioner.

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 determined Petitioner's FAP benefit amount effective July 1, 2024 ongoing.

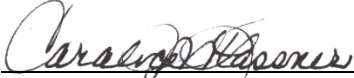
**DECISION AND ORDER**

Accordingly, Petitioner's hearing request regarding FIP is **DISMISSED** and the Department's FAP decision is **REVERSED**.

TO THE EXTENT IT HAS NOT ALREADY DONE SO, 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 FAP eligibility for July 1, 2024 ongoing;
2. If Petitioner is eligible for any supplemental FAP benefits, issue supplemental payments to Petitioner for any FAP benefits he was eligible to receive but did not, for July 1, 2024 ongoing; and
3. Notify Petitioner of its decision in writing.

CML/nr

  
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**Caralyce M. Lassner**  
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

N. Denson-Sogbaka

B. Cabanaw

MOAHR

**Via-First Class Mail :**

**Petitioner**

[REDACTED]  
[REDACTED] MI [REDACTED]