



GRETCHEN WHITMER  
GOVERNOR

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

MARLON BROWN  
DIRECTOR

[REDACTED]  
MI [REDACTED]

Date Mailed: August 23, 2024  
MOAHR Docket No.: 24-008469  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler**

### **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 August 22, 2024. The Petitioner was self-represented and appeared with her husband, [REDACTED] as a witness. The Department of Health and Human Services (Department) was represented by Jennifer Richard, Assistance Payments Supervisor.

### **ISSUE**

Did the Department properly calculate Petitioner's Food Assistance Program (FAP) benefit rate?

### **FINDINGS OF FACT**

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On May 24, 2024, the Department received Petitioner's completed Redetermination although some pages were missing.
2. Petitioner receives Retirement Survivors Disability Insurance (RSDI) benefits in the amount of \$ [REDACTED] per month and is enrolled in the Medicare Savings Program (MSP).
3. Petitioner's husband is receiving a Long-Term Disability (LTD) benefit of \$ [REDACTED] per month.
4. Petitioner has a lot rent expense of \$528.00 per month, a mortgage of \$400.00 per month, and is also paying arrears on the mortgage in the amount of \$700.00 per month based upon a previous bankruptcy decision. Petitioner has not previously

reported the mortgage arrearage expense to the Department, but it became effective February 2024.

5. On June 25, 2024, the Department issued a Notice of Case Action to Petitioner advising her that effective July 1, 2024, she would be eligible for \$36.00 per month in FAP benefits for a group size of two based upon \$ [REDACTED] in unearned income, the Standard Deduction of \$198.00, housing expenses of \$928.00, and finally the heat and utility standard deduction (H/U) of \$680.00 per month.
6. On July 18, 2024, the Department received Petitioner's request for hearing disputing the calculation of her FAP benefit rate.

### **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 disputes the Department's calculation of her FAP benefit rate. 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 only household income is Petitioner's RSDI benefit of \$ [REDACTED] per month and her husband's LTD benefit of \$ [REDACTED] per month. Policy requires that the Department consider the gross benefit as unearned income for each. BEM 503 (January 2023), pp. 29, 33-34. Total household income is \$ [REDACTED] and was properly calculated by the Department.

After consideration of income, the Department considers all appropriate deductions and expenses. Petitioner is disabled pursuant to policy meaning she receives a federal

disability benefit under the Social Security Act, but her husband is not; therefore, the group is eligible for the following deductions to income:

- Standard Medical Deduction (SMD) for medical expenses of the disabled individual.
- Dependent care expense.
- Excess shelter deduction.
- Court ordered child support and arrearages paid to non-household members.
- Standard deduction based on group size.

BEM 550 (April 2023), pp. 1; BEM 554 (January 2024), p. 1; BEM 556 (January 2023), pp. -6.

The group is eligible for the standard deduction of \$198.00. RFT 255 (October 2023), p. 1; BEM 556, p. 4. No evidence was presented that Petitioner has dependent care or child support expenses. Next, Petitioner is disabled so verified medical expenses may be considered in determining her FAP benefit rate but not the medical expenses attributable to her husband. Per policy a disabled person that has a verified one-time or ongoing medical expense(s) of more than \$35 for a disabled person(s) will receive the SMD. BEM 554, p. 9. The SMD is \$165. *Id.* If the disabled individual has actual medical expenses which are more than the SMD, they have the option to verify their actual expenses instead of receiving the SMD. *Id.* In addition, groups that do not have a 24-month benefit period may choose to budget a one-time-only expense for one month or average it over the balance of the benefit period. BEM 554, p. 9. Groups with a 24-month benefit period are given the option to budget the expense for one month, average it over the remainder of the first 12 months of the benefit period, or average it over the remainder of the 24-month benefit period. BEM 554, p. 10. Petitioner is not responsible for her Medicare Part B premium, and no other medical expenses have been verified with the Department; therefore, the Department properly budgeted \$0.00 for this expense. Each of these expenses is deducted from Petitioner's gross income to equal her Adjusted Gross Income (AGI) of \$[REDACTED].

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 standard deductions and reducing this expense by half of Petitioner's AGI. BEM 556, pp. 4-7; 7 CFR 273.9(d)(6)(ii). Petitioner is responsible for lot rent of \$528.00 per month, a mortgage of \$400.00 per month, arrears on her mortgage of \$700.00 per month pursuant to a bankruptcy agreement, in addition to the heat and electric expenses. Policy provides that housing expenses may include rent, mortgage, second mortgage, home equity loan, condo fees, lot rent, payments leading to the ownership including interest of the shelter of the FAP group, and finally required payments to prevent eviction or foreclosure. BEM 554, p. 15. Therefore, each of these expenses is allowed, but because Petitioner has not previously reported the bankruptcy mortgage arrears expense to the Department, it cannot be considered as part of this calculation. The heat and utility standard deduction (H/U) of \$680.00 covers all heat and utility costs

including cooling except actual utility expenses (repairs or maintenance). BEM 554, p. 16. When a client is not responsible for heating and/or cooling costs, the client may receive utility standard deductions for non-heat electric, water and/or sewer, telephone, cooking fuel, and trash as applicable. BEM 554, p. 22-25. The Department is required to annually review these standards and make adjustments to reflect changes in costs. 7 CFR 273.9(d)(6)(iii)(B). The expenses and factors outlined here are the only expenses considered for purposes of calculating the FAP budget and determining eligibility. After each item is considered, Petitioner's total housing cost is added together (\$1,608.00) and reduced by 50% of Petitioner's AGI (\$ [REDACTED]) resulting in an excess shelter cost of \$518.00. *Id.*

Next, Petitioner's excess shelter cost is deducted from her AGI to equal her Net Income, of \$ [REDACTED]. *Id.* A review of the Food Assistance Issuance Table shows that Petitioner is eligible for \$36.00 in FAP benefits for a group size of two. BEM 556, p. 6; RFT 260 (October 2023), p. 21. The Department properly calculated Petitioner's FAP benefit rate effective July 2024.

Once Petitioner reports in writing the additional housing expense for mortgage arrears as part of the bankruptcy agreement, Petitioner's FAP budget can be adjusted.

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 calculated Petitioner's FAP benefit rate.

### **DECISION AND ORDER**

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

AM/cc



---

**Amanda M. T. Marler**  
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 :**

**Interested Parties**

MDHHS-Kent-Hearings  
BSC3-HearingDecisions  
N. Denson-Sogbaka  
B. Cabanaw  
M. Holden  
MOAHR

**Via-First Class Mail :**

**Petitioner**

[REDACTED] MI [REDACTED]