



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: September 26, 2024
MOAHR Docket No.: 24-008472
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: L. Alisyn Crawford

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 September 11, 2024. Petitioner was present at the hearing and represented herself. The Department of Health and Human Services (Department) was represented by Tom Jones, Assistance Payments Supervisor.

ISSUE

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

Did the Department properly determine Petitioner's Medical Assistance (MA) 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 recipient of FAP for a certified group of five, which consisted of herself, one adult child, and three minor children.
2. Petitioner's three minor children each receive Retirement, Survivors, and Disability Insurance (RSDI) income of ██████ per month.
3. On July 23, 2024, the Department issued a Notice of Case Action (NOCA) approving Petitioner for FAP benefits of \$172 per month for June 17, 2024 through June 30, 2024 and \$365 per month effective July 1, 2024. (Exhibit A, pp. 19-23).
4. On July 24, 2024, the Department received a request for hearing from Petitioner disputing the amount of her FAP benefits. (Exhibit A, pp. 3-7).

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).

Petitioner requested this hearing to dispute the Department's actions taken with respect to FAP and MA program benefits. (Exhibit A, pp. 3-7). Following commencement of the hearing, Petitioner confirmed that there was no longer a contested issue with respect to the Department's action regarding her MA program benefits. Petitioner testified that her concerns regarding MA were resolved, and she withdrew her hearing request with respect to MA on the record. Therefore, Petitioner's request for hearing as it relates to MA is **DISMISSED**.

FAP

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 amount of her monthly FAP benefit. Petitioner was approved for \$365 per month in FAP benefits for a group size of five.

To determine whether the Department properly calculated Petitioner's FAP benefit amount, it is necessary to evaluate the household's countable income. 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. For RSDI income, the Department counts the gross amount as unearned income. BEM 503 (April 1, 2024), p. 30. The Department defines child support as is money paid by an absent parent(s) for the living expenses of a child(ren). Child support is income to the child for whom the support is paid. BEM 503, p. 6. When determining the budgetable income, the Department must use countable, available income for the benefit month being processed. BEM 505, p. 3.

The Department conducted an income eligibility determination based on information provided by Petitioner and other verification sources and concluded that Petitioner's household income consisted of [REDACTED] in monthly self-employment income, [REDACTED] monthly in RSDI income, and [REDACTED] in monthly child support income. The Department introduced evidence from an Unearned Income Budget Summary which showed that Petitioner's minor children have gross RSDI income of [REDACTED] per month, or [REDACTED] collectively per month, and child support totaling [REDACTED] per month. (Exhibit A, pp. 10-13).

Based on its evidence, the Department concluded that Petitioner's household income for RSDI unearned income, child support, and self-employment totaled [REDACTED] Petitioner did not dispute the income attributed to her for child support or self-employment. Rather, Petitioner disputed the Department decision to attribute the RSDI income to her household since this income is neither received nor available directly to her household. The minor children's father, a non-household member, is the representative payee for the children's RSDI benefits. Therefore, the children's RSDI is paid to Petitioner's ex-husband, not Petitioner. Petitioner testified that her minor children's father receives the children's RSDI benefits and that he applies these funds towards his monthly child support obligations to her. Petitioner asserted that the Department inclusion of the minor children's RSDI income resulted in a higher monthly income than her household actually received, thus reducing the FAP benefits Petitioner was eligible to receive.

Upon its review of the minor children's RSDI issuance information in its system, the Department acknowledged during the hearing that the income information used in its calculation of Petitioner's household income was inaccurate, resulting in an incorrect benefit determination because Petitioner was not the payee of the RSDI income but instead Petitioner's ex-husband was the payee and received the monthly RSDI income on the minor children's behalf. The fact that Petitioner's ex-husband was the payee supported Petitioner's argument that the funds were not available to her. Therefore, the Department did not act in accordance with Department policy when it determined Petitioner's household's income in determining her FAP benefit amount.

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 monthly FAP benefits of \$365 effective July 1, 2024.

DECISION AND ORDER

Petitioner's hearing request concerning MA is **DISMISSED**.

The Department's decision is **REVERSED** with respect to Petitioner's FAP case.

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 benefit amount, excluding the minor children's RSDI income that is paid to a non-household member, effective June 17, 2024, ongoing;
2. If eligible, issue FAP supplements to Petitioner from June 17, 2024 ongoing for any benefits she was eligible to receive but did not; and,
3. Notify Petitioner of its decision in writing.

LC/ml


L. Alisyn Crawford
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

Tracey Jones

Oakland County Southfield District III

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Southfield, MI 48033

MDHHS-Oakland-6303-Hearings@michigan.gov

Interested Parties

BSC4

M Holden

B Cabanaw

N Denson-Sogbaka

MOAHR

Via First Class Mail:

Petitioner

[REDACTED]

[REDACTED]

[REDACTED] MI [REDACTED]