



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] MI [REDACTED]

Date Mailed: September 26, 2024  
MOAHR Docket No.: 24-009387  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**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 18, 2024. Petitioner was not present at the hearing, and was represented by [REDACTED] Authorized Hearing Representative (AHR). The Department of Health and Human Services (Department) was represented by Danielle Moton, Assistance Payments Worker.

**ISSUE**

Did the Department properly determine Petitioner and his wife's (Wife) 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 is an ongoing FAP recipient in a household consisting of him, Wife and their two children.
2. Petitioner and Wife both receive unemployment benefits weekly in the amount of \$362 each. (Exhibit A, pp. 33-40).
3. On June 15, 2024, the Department sent a Notice of Case Action (NOCA) to Petitioner informing him that effective July 1, 2024 his household's FAP benefits would decrease to \$170 per month due to changes in the household's net unearned income and shelter deduction. (Exhibit A, pp. 15-19).
4. On August 8, 2024, the Department received Petitioner's request for hearing disputing the monthly FAP benefit amount and MA case. (Exhibit A, pp. 3-5).

## **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).

### **Preliminary Issue**

At the commencement of the hearing, the Department asserted that Petitioner “has unauthorized representative signed on hearing request.” Policy defines an authorized hearings representative as the person who stands in for or represents the client in the hearing process and has the legal right to do so. BPG Glossary (June 2024), pp. 6-7. This right can come from written authorization, signed by the client, giving the person authority to act for the client in the hearing process. Here, the hearing request was signed by Petitioner, naming [REDACTED] as representative. (Exhibit A, 3-5). The Department did not provide any evidence that the signed hearing request was defective or fraudulent, or that Petitioner did not intend to have the AHR serve on his behalf. Therefore, while the Department raised a concern with respect to Petitioner’s AHR, the request for hearing was signed by the Petitioner and the AHR section was filled out in accordance with Department policy, and thus was a proper delegation of authority. BAM 600 (June 2024), p. 2. The undersigned finds that the Petitioner’s AHR has the proper authority to represent Petitioner.

### **MA**

Petitioner requested this hearing to dispute the Department’s actions taken with respect to FAP and MA program benefits. (Exhibit A, 3-5). Following commencement of the hearing, Petitioner’s AHR confirmed that there was no longer a contested issue with respect to the Department’s action regarding Petitioner and Wife’s MA program benefits. Petitioner’s AHR testified that concerns regarding MA coverage were resolved, and she withdrew Petitioner’s 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.

In this case, Petitioner disputes the Department’s determination of his monthly FAP benefit amount.

To determine whether the Department properly calculated Petitioner’s FAP benefit amount, the Department must first consider 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. BEM 505, pp. 8-9.

Petitioner and Wife each receive unemployment benefits in the amount of [REDACTED] weekly. (Exhibit A, pp. 33-40). The Department standardized Petitioner's and Wife's weekly unemployment benefits by multiplying their weekly unearned income by 4.3, resulting in a monthly gross income amount of [REDACTED]. The Department properly considered and budgeted [REDACTED] in household unearned income.

After consideration of income, the Department considers all appropriate deductions and expenses. Because no one in Petitioner's FAP group is disabled, over age 65, or a disabled veteran, the group is not considered a Senior/Disabled/Disabled Veteran (SDV) group. BEM 550 (April 2023), p. 1. While Petitioner's AHR asserted that the Department should have considered Petitioner an SDV group member due to his increasing blindness, no evidence was presented that Petitioner was deemed disabled or blind based on Social Security Administration standards. See BEM 550, pp. 1-2. Petitioner's AHR acknowledged she had not provided such information to the Department. Therefore, the Department properly did not identify Petitioner as an SDV group member.

Groups with unearned income and no SDV members are eligible to the following deductions to gross income: a standard deduction based on group size; child support expenses paid by the household to non-household members; dependent care expenses; and an excess shelter deduction. BEM 554 (February 2024), p. 1.

Petitioner's FAP benefit group size of four consisting of Petitioner, Wife and their two children justifies a standard deduction of \$208.00. (Exhibit A, p. 20); RFT 255 (October 2023), p. 1. The Department properly included the standard deduction in Petitioner's household budget. There was no evidence that Petitioner's group incurred any child support or dependent care expenses. Therefore, the budget properly showed no deductions for those items. Petitioner's Adjusted Gross Income (AGI), calculated by subtracting the foregoing applicable deductions from the gross income of [REDACTED] is [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 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). At the hearing, Petitioner's AHR reported that Petitioner's rent increased from \$1,000 per month to \$1,500 per month. Petitioner's AHR acknowledged that this change had not been reported to the Department. Petitioner's AHR was informed that if housing cost changes are reported to the Department, it may affect future FAP benefits. Since the increase in rent was not reported, the Department properly used the rent amount that was provided by Petitioner of \$1,000. (Exhibit A, p. 21).

The Department applied the \$680.00 heat and utility standard deduction to the calculation of the excess shelter deduction, which is the most beneficial utility deduction available to FAP recipients. BEM 554, pp. 22-24. Petitioner's total shelter amount expense is \$1,680, which is the sum of his rent and heat and utility standard. This reduced by 50% of Petitioner's AGI [REDACTED] results in an excess shelter deduction of \$228.00. BEM 556, pp. 5-6.

To determine Petitioner's net income, Petitioner's excess shelter deduction of \$228.00 is subtracted from his [REDACTED] AGI to equal his 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 \$170. BEM 556, p. 6; RFT 260 (October 2023), p. 11. Therefore, the Department properly calculated Petitioner's 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 acted in accordance with Department policy when it determined Petitioner and Wife's FAP benefit amount.

### **DECISION AND ORDER**

Petitioner's hearing request concerning his and Wife's MA case is **DISMISSED**.

The Department's decision with respect to Petitioner and Wife's FAP case is **AFFIRMED**.

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**

Tara Roland 82-17

Wayne-Greenfield/Joy-DHHS

8655 Greenfield

Detroit, MI 48228

**MDHHS-Wayne-17-hearings@michigan.gov**

**Interested Parties**

BSC4

M Holden

B Cabanaw

N Denson-Sogbaka

MOAHR

**Via First Class Mail:**

**Authorized Hearing Rep.**

[REDACTED]

[REDACTED]

[REDACTED], OH [REDACTED]

**Petitioner**

[REDACTED]

[REDACTED]

[REDACTED], MI [REDACTED]