



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: October 29, 2024
MOAHR Docket No.: 24-010151
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 October 10, 2024. Petitioner was present at the hearing and represented herself. Also present at the hearing was Petitioner's cousin ██████████ who served as an Arabic translator for Petitioner. The Department of Health and Human Services (Department) was represented by Danielle Moton, Assistance Payments Worker. The hearing was conducted before Administrative Law Judge (ALJ) L. Alisyn Crawford. Because ALJ Crawford is unavailable, the undersigned reviewed the record and issued this Hearing Decision based on the evidence presented. See Mich Admin Code, R 792.10106(7).

ISSUE

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

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 benefits.
2. Petitioner lives with her ██████-year-old disabled daughter (Daughter) and ██████-year-old daughter. Petitioner and Daughter are the only household members who purchase and prepare food together. (Exhibit A, pp. 7, 14)
3. Petitioner is employed as an in-home care provider for Daughter and has monthly income in the amount of ██████. Daughter receives monthly Social Security Insurance

(SSI) benefit payments in the amount of [REDACTED] Daughter also receives a quarterly State SSI Payment (SSP) from the State of Michigan in the amount of [REDACTED] (Exhibit A, p. 17)

4. In August 2024, the Department received a FAP redetermination application from Petitioner. (Exhibit A, pp. 6-13).
5. On August 5, 2024, the Department conducted a FAP redetermination phone interview with Petitioner, during which she reported that (i) she stopped working for EduStaff in June 2024 and now worked as an Adult Home Help provider for Daughter and (ii) while her monthly rent amount was \$1,500, she was only responsible for payment a portion of the rent in the amount of \$936, with the remaining rent paid by the Westland Housing Commission. (Exhibit A, pp. 14-20; 28).
6. On August 26, 2024, the Department sent Petitioner a Notice of Case Action (NOCA) advising her that she was approved for FAP benefits in the amount of \$379 per month effective September 1, 2024. (Exhibit A, pp. 21-25). Her FAP monthly benefits decreased to \$378 for October 2024 ongoing
7. On September 1, 2024, the Department received a hearing request from Petitioner disputing the FAP benefit amount determined by the Department. (Exhibit A, pp. 1-4).

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 based on a reduction in her FAP benefits. At the hearing, the Department testified that Petitioner's FAP benefit decreased once her earned income was included in her FAP budget as well as Daughter's SSI benefits. Petitioner received \$379 in September 2024. The Department presented a FAP budget for October 2024 showing that, based on updated policy standards effective October 1, 2024, Petitioner's FAP group became eligible for \$378 for October 2024 ongoing.

Petitioner and Daughter, who lived with Petitioner and was under 22 years old, are mandatory FAP group members. Petitioner's other adult daughter who lived with

Petitioner was over age 22 and did not purchase and prepare food with Petitioner and Daughter. Therefore, Petitioner's FAP group size is two, consisting of Petitioner and Daughter. BEM 212 (March 2024), pp. 1, 3, 5-6.

In this case, the Department provided a FAP net income budget for October 2024 ongoing that was reviewed at the hearing. To determine whether the Department properly calculated Petitioner's FAP benefit amount, it is necessary to evaluate the FAP group'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), pp. 1-2. The Department counts gross wages in the calculation of earned income. BEM 501 (January 2024), pp. 6-7. For FAP purposes, the Department counts the gross amount of current SSI benefits and the corresponding monthly SSP benefit amount as unearned income. BEM 503 (April 2024), pp. 36-37.

Petitioner did not dispute that her FAP group household income consisted of [REDACTED] of monthly earned income for the in-home care she provides to Daughter and [REDACTED] in unearned Social Security benefits to Daughter (based on [REDACTED] in monthly SSI and [REDACTED] attributable to the quarterly SSP amount paid to Daughter by the Department). Based on this, the Department determined that the household monthly income for Petitioner totaled [REDACTED]

Once countable income is calculated, the Department must determine which deductions are available to Petitioner. Because Daughter is disabled, she is considered a senior/disabled/disabled veteran (SDV) member of the FAP group. BEM 550 (February 2024), p. 1. Households with an SDV member with earned and unearned income may be eligible for the following deductions:

- Standard deduction based on group size.
- Earned income deduction equal to 20% of the earned income for the group.
- 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 (October 2024), p. 1; BEM 556 (October 2024), pp. 3-6.

All groups are entitled to a standard deduction in the amount determined by the group size. BEM 550, p. 1. The October FAP net income budget shows that Petitioner was properly given the standard deduction of \$204 based on her two-person FAP group and earned income deduction of \$166, based on 20% of her gross monthly earned income of [REDACTED] RFT 255 (October 2024), p. 1; BEM 556 (March 2024), p. 3. Petitioner had no dependent care or child support expenses, and the budget properly reflected no deduction for those items.

SDV groups who verify one-time or ongoing medical expenses in excess of \$35 for the SDV member, are eligible for a standard medical deduction of \$165 unless the group has actual medical expenses in a higher amount and verify those actual medical expenses. BEM 554, p. 9. Although Petitioner contended at the hearing that Daughter had medical expenses she incurred, she did not identify any medical expenses for Daughter on her redetermination or during her interview with the Department worker. (Exhibit A, pp. 8, 18) Petitioner was advised that she could report those expenses to the Department to possibly affect future FAP benefits, but, based on the information available to it at the time it determined eligibility, the Department properly did not include a medical expenses deduction in Petitioner's FAP calculation.

Before determining the excess shelter deduction, the Department calculates Petitioner's FAP group's monthly adjusted gross income (AGI) by reducing the group's total income by the foregoing deductions. When Petitioner's [REDACTED] gross monthly income is reduced by the available [REDACTED] earned income deduction and \$204 standard deduction, her AGI is [REDACTED]

The excess shelter deduction is the last deduction available in calculating Petitioner's net income and is the (i) sum of Petitioner's housing expenses and the applicable utility standard based on Petitioner's utility obligations and, beginning October 1, 2024, the internet deduction for eligible clients, reduced by (ii) 50% of Petitioner's AGI. In this case, the October 2024 budget shows that Petitioner's monthly housing expense is \$936 and she received the heat and utility (h/u) standard deduction in the amount of \$664, which is the most beneficial utility standard available to a client starting in October 2024. BEM 554, pp. 17-22; RFT 255 (October 2024), p. 1. A FAP group responsible to pay for internet service is eligible for the internet standard, presently set at \$50, in the calculation of the excess shelter deduction. BEM 554, p. 26; BEM 556 (October 2024), p. 5; RFT 255, p. 1. However, the budget in this case does not include a line item for the internet standard, and there was no evidence to show whether Petitioner was eligible for this deduction in the calculation of her excess shelter deduction. Because Petitioner's excess shelter deduction is affected by the inclusion of the internet deduction if Petitioner is eligible for the deduction, the Department has failed to establish whether it properly calculated Petitioner's FAP budget for October 2024 ongoing.

It is noted the information used for the September 2024 budget as shown on the August 26, 2024 NOCA, before the internet utility standard became effective, shows that the Department considered the same gross income for Petitioner's FAP group and shelter expenses for September 2024 as shown in the October 2024 ongoing budget but applied the \$198 standard deduction and \$680 h/u standard deduction applicable in September 2024. RFT 255 (October 2023), p. 1. Based on Petitioner's FAP group's income and deductions, calculated in the manner described herein, the Department properly determined that Petitioner had [REDACTED] income of [REDACTED] as shown on the NOCA. BEM 556 (May 2024), pp. 2-8. Based on [REDACTED] in net income in September 2024, the Department properly concluded that Petitioner was eligible for \$379 in monthly FAP benefits for September 2024. RFT 260 (October 2023), p. 8.

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 has satisfied its burden of showing that it properly calculated Petitioner's September 2024 FAP benefits but failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Petitioner's FAP benefit amount for October 2024 ongoing.

DECISION AND ORDER

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

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 budget for October 2024 ongoing, requesting any necessary verifications, if required;
2. If eligible, supplement Petitioner for any FAP benefits she was eligible to receive but did not for October 2024 ongoing; and
3. Notify Petitioner of its decision in writing.

ACE/ml



Alice C. Elkin
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

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Detroit, MI 48228

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Interested Parties

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Via First Class Mail:

Petitioner

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