



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: November 7, 2024
MOAHR Docket No.: 24-010349
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun

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 31, 2024, from Detroit, Michigan. Petitioner appeared for the hearing with her caregiver, [REDACTED] and represented herself. The Department of Health and Human Services (Department) was represented by Lori Tuner, Eligibility Specialist. Ahmad Gamel served as Arabic interpreter.

ISSUE

Did the Department properly calculate the amount of Petitioner's 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 was previously an ongoing recipient of FAP benefits in the amount of \$227 monthly. On an unverified date and for an unknown reason, Petitioner's FAP case closed.
2. On or around August 14, 2024, Petitioner submitted a new application requesting FAP benefits. (Exhibit A, pp. 8-14)
3. On or around August 29, 2024, the Department sent Petitioner a Notice of Case Action, advising her that from August 14, 2024, through August 31, 2024, she was approved for \$36 in prorated FAP benefits and that effective September 1, 2024, ongoing, she was approved for \$63 in FAP benefits monthly. (Exhibit A, pp. 18-22)

4. On or around September 6, 2024, Petitioner requested a hearing disputing the Department's actions with respect to the calculation of her FAP benefits and the reduction in her benefits to \$63 monthly.

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 disputed the calculation of her FAP benefits, specifically, the decrease in her FAP allotment to \$63 monthly. The Department representative testified that after processing Petitioner's August 14, 2024, FAP application, it determined that Petitioner was eligible for \$63 in FAP benefits for September 2024, ongoing. The Department presented a FAP EDG Net Income Results Budget for the September 2024 benefit period which was thoroughly reviewed to determine if the Department properly calculated Petitioner's FAP benefits. (Exhibit A, pp. 15-18).

All countable earned and unearned income available to the client must be considered in determining a client's eligibility for program benefits and group composition policies specify whose income is countable. BEM 500 (April 2022), pp. 1 – 5. The Department considers the gross amount of money earned from Supplemental Security Income (SSI) in the calculation of unearned income for purposes of FAP budgeting. BEM 503 (April 2024), p. 35. For an individual who lives in an independent living situation, State SSI Payments (SSP) are issued quarterly in the amount of [REDACTED] and the payments are issued in the final month of each quarter; see BEM 660. The Department will count the monthly SSP benefit amount [REDACTED] as unearned income. BEM 503, pp. 36-37; BEM 660 (October 2021), pp. 1-2; RFT 248 (January 2024), p. 1.

The Department concluded that Petitioner had unearned income in the amount of [REDACTED] which the Department representative testified consisted of [REDACTED] in SSI for Petitioner and the [REDACTED] SSP payment, both of which were confirmed as accurate by Petitioner during the hearing and thus, were properly calculated.

The deductions to income on the net income budget were also reviewed. Petitioner's FAP group includes a senior/disabled/veteran (SDV) member. BEM 550 (February

2024), pp. 1-2. Petitioner's FAP group is eligible for the following deductions to income:

- Dependent care expense.
- Excess shelter.
- Court ordered child support and arrearages paid to non-household members.
- Standard deduction based on group size.
- Medical expenses for the SDV member(s) that exceed \$35.
- An earned income deduction equal to 20% of any earned income.

BEM 554 (July 2024), p. 1; BEM 556 (May 2024), p. 1-8.

Petitioner's group did not have any earned income, thus, there was no applicable earned income deduction. There was no evidence presented that Petitioner had any out-of-pocket dependent care, child support, or medical expenses and therefore, the budget properly did not include any deduction for dependent care, child support or medical expenses. See BEM 554. The Department properly applied a standard deduction of \$198 which was based on Petitioner's confirmed group size of one. RFT 255 (October 2023), p. 1. With respect to the calculation of the excess shelter deduction, the Department properly considered Petitioner's confirmed monthly housing expenses of \$277 for monthly rent. The Department representative testified that because heat, electric, and water expenses are included in the costs of Petitioner's monthly rent, she was not eligible for the \$680 heat and utility (h/u) standard and was only eligible for the \$31 telephone standard, which is identified on the budget. BEM 554, pp. 13-17. While Petitioner confirmed that her heat and electric expenses are included in her monthly rent, Petitioner credibly testified that she is responsible for additional yearly air conditioning expenses for use of her in room air conditioning unit that are not included in the costs of her monthly rent. BEM 554 provides that FAP groups who have electricity included in their rent are not eligible for the h/u standard unless their landlord bills them separately for excess cooling. BEM 554, p.21. Because Petitioner has a separate responsibility for cooling expenses, Petitioner should have received the h/u standard. Thus, the Department failed to properly calculate the excess shelter deduction.

After further review, although the Department properly determined Petitioner's income and took into consideration some appropriate deductions to income, because of the errors identified with respect to the excess shelter deduction, and the Department's failure to include the h/u standard, 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 calculated Petitioner's FAP benefits of \$63 effective September 1, 2024. Because Petitioner submitted a new application on August 14, 2024, the Department will be ordered to recalculate the FAP budget starting August 14, 2024.


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. Recalculate Petitioner's FAP budget for August 14, 2024, ongoing, taking into consideration her responsibility for excess cooling expenses/the heat and utility standard;
2. Issue FAP supplements to Petitioner for any benefits she was eligible to receive but did not, if any, from August 14, 2024, ongoing, in accordance with Department policy; and
3. Notify Petitioner in writing of its decision.

ZB/ml


Zainab A. Baydoun
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 Schaefer

EQAD

MOAHR

Via First Class Mail:

Petitioner

[REDACTED]

[REDACTED]

[REDACTED] MI [REDACTED]