



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]

Date Mailed: November 20, 2024  
MOAHR Docket No.: 24-010493  
Agency No.: [REDACTED]  
Petitioner: [REDACTED] [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Colleen Lack**

**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 November 6, 2024, from Lansing, Michigan. [REDACTED] [REDACTED] the Petitioner, appeared on her own behalf. The Department of Health and Human Services (Department) was represented by Tracy Nguyen, Lead Worker.

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-29.

**ISSUE**

Did the Department properly determine Petitioner's 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. On July [REDACTED] 2024, a data exchange system automatically updated based on Petitioner's approval of Social Security Administration (SSA) issued Supplemental Security Income (SSI) benefits. This affected Petitioner's eligibility for Medical Assistance (MA) benefits as well as updating her income for the FAP case. (Exhibit A, pp. 1 and 6-7)
2. On August [REDACTED] 2024, a Notice of Case Action was issued to Petitioner stating her FAP benefits would decrease to \$[REDACTED] for the period of September 1, 2024 through May 31, 2025. (Exhibit A, pp. 8-12)

3. Effective October 1, 2024, there was a change in the full heat and utility standard (h/u standard) for the FAP program. (Exhibit A, p. 1; RFT 255, October 1, 2024, p. 1)
4. On September █ 2024, a Notice of Case Action was issued to Petitioner stating her FAP benefits would decrease to \$█ for the period of October 1, 2024 through May 31, 2025. (Exhibit A, pp. 18-22)
5. On September 11, 2024, Petitioner requested a hearing contesting the Department's determination. (Exhibit A, pp. 4-5)

### **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).

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.

The Department considers the gross amount of current SSA-issued SSI as unearned income. BEM 503, April 1, 2024, p. 36.

For FAP, a shelter expense is allowed when the FAP group has a shelter expense or contributes to the shelter expense. BEM 554, (July 1, 2024), p. 14. The heat/utility (h/u) standard covers all heat and utility costs including cooling, except actual utility expenses, for example, installation fees etc. FAP groups that qualify for the h/u standard do not receive any other individual utility standards. FAP groups whose heat is included in their rent may still qualify for the h/u standard. Some additional ways include but are not limited to, receipt of the Home Heating Credit (HHC) or a Low Income Home Energy Assistance Payment (LIHEAP). The amount of either payment must be greater than \$20 in the month of application or in the immediately preceding 12 months prior to the application month. BEM 554, pp. 17-18. FAP groups who pay for cooling (including room air conditioners) are eligible for the h/u standard if, they have the responsibility to pay for non-heat electric. BEM 554 p. 19. FAP groups not eligible for the h/u standard who have other utility expenses or contribute to the cost of other utility expenses are eligible for the individual utility standards. Use the individual standard for each utility the FAP group has responsibility to pay. BEM 554 p. 22.

The Department can also consider verified allowable medical expenses of a senior/disabled/veteran (SDV) member of the FAP group. BEM 554, pp. 9-14.

In this case, Petitioner testified that she does not dispute the FAP budgets. Rather, Petitioner explained that her medical condition has resulted in nutrition problems. Petitioner has almost no colon left to absorb nutrition from the foods she eats. Petitioner cannot afford to eat the types and amounts of foods she needs to live. Petitioner suffers from complications of chronic malnutrition. Petitioner noted the significant amounts that have been covered for her medical treatment, yet her FAP benefit is being reduced. (Petitioner Testimony). However, FAP and MA are separate programs. There is no policy that allows for any changes or exceptions to the applicable FAP policy and required standards based on an individual's medical condition.

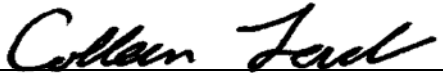
The FAP budgets show that the Department properly determined Petitioner's eligibility for FAP based on the available information regarding her income, allowable expenses, and the required standards for the FAP program. (Exhibit A, pp. 14-17 and 24-25). The determinations to reduce Petitioner's monthly FAP benefit amount were in accordance with Department policy. This Administrative Law Judge has no authority to change or make exceptions to the applicable FAP policy and required standards.

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's eligibility for FAP.

**DECISION AND ORDER**

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

CL/dm

  
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**Colleen Lack**  
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**  
Lisa Keough  
Livingston County DHHS  
**MDHHS-Livingston-  
Hearings@michigan.gov**

**HoldenM**

**DensonSogbakaN**

**BSC4HearingDecisions**

**MOAHR**

**Via-First Class Mail :**

**Petitioner**

[REDACTED]  
[REDACTED]  
[REDACTED]