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GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES  
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Date Mailed: October 25, 2024  
MOAHR Docket No.: 24-010687  
Agency No.: ██████████  
Petitioner: ██████████

**ADMINISTRATIVE LAW JUDGE: Linda Jordan**

### **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 hearing was held on October 16, 2024, via teleconference. Petitioner appeared and represented herself. Jennifer Richard, Assistance Payments Supervisor, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department). MDHHS' Hearing Packet was admitted into evidence at the hearing as MDHHS Exhibit A, pp. 1-23.

### **ISSUE**

Did MDHHS properly determine Petitioner's Food Assistance Program (FAP) benefit rate?

### **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. On ██████████ 2024, Petitioner submitted a Semi-Annual Contact Report to MDHHS for FAP (Exhibit A, p. 5).
3. On June 28, 2024, MDHHS sent Petitioner a Notice of Case Action, indicating that she was approved for FAP benefits at a rate of \$██████████ per month, effective July 1, 2024 ongoing (Exhibit A, p. 16).
4. On September 13, 2024, Petitioner requested a hearing regarding her FAP benefits (Exhibit A, p. 3).

## 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. MDHHS 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, MDHHS determined that Petitioner was eligible for FAP benefits at a rate of \$[REDACTED] per month, effective July 1, 2024 ongoing. Petitioner disputed this amount. To determine whether MDHHS properly calculated Petitioner's FAP benefit amount, it is necessary to evaluate the household's countable income. BEM 500 (April 2022), pp. 1-5. MDHHS determined that Petitioner received \$[REDACTED] per month in countable unearned income, which represented Petitioner's monthly Retirement, Survivors, and Disability Insurance (RSDI) payment, and income Petitioner received from spousal support payments. MDHHS budgeted \$[REDACTED] in RSDI income. Petitioner did not dispute this amount.

Spousal support is a payment from a spouse or former spouse because of a legally enforceable obligation for financial support. BEM 503 (April 2024), p. 34. It includes maintenance and alimony payments. *Id.* Direct spousal support is a payment received by the spouse or ex-spouse because of a legally binding obligation. *Id.* MDHHS counts the total amount as unearned income, except any portion that is court-ordered or legally obligated directly to a creditor or service provider. *Id.*, p. 35. When determining child support income, MDHHS uses an average of payments received in the past three calendar months, unless changes are expected. BEM 505 (October 2023), p. 4. For non-child support income MDHHS can use the last 30 days of income if it appears to reflect what is expected during the benefit month. *Id.*, p. 6. MDHHS can also use the past 60 or 90 days of income if the payments are fluctuating and/or irregular. *Id.*

MDHHS budgeted \$[REDACTED] in monthly spousal support payments. Petitioner disputed this amount and testified that there are months in which she receives no payments. MDHHS testified that it averaged the amounts received by Petitioner in the last three calendar months to prospect Petitioner's spousal support income. Given Petitioner's testimony regarding the irregular spousal support payments, taking an average from the past 90 days is reasonable and in line with the Department policy stated above. Thus, MDHHS properly determined that Petitioner's countable unearned income was \$[REDACTED], which equals the amount of her monthly RSDI and spousal support payments. After income is calculated, MDHHS must determine applicable deductions. Petitioner's FAP group is considered a Senior/Disabled/Disabled Veteran (SDV) group. BEM 550 (February 2024), p. 1. SDV groups are eligible for the following deductions.

- Earned income deduction
- Dependent care expense
- Court ordered child support and arrearages paid to non-household members
- Medical expenses for SDV members that exceed \$35
- Standard deduction based on group size
- Excess shelter deduction

BEM 550, p. 1; BEM 554 (July 2024), p. 1; BEM 556 (May 2024), p. 3. No evidence was presented that Petitioner had earned income, dependent care expenses, verified medical expenses or court-ordered child support. MDHHS budgeted the standard deduction for a household of one, which was \$198.00. RFT 255 (October 2023), p. 1. To calculate Petitioner's Adjusted Gross Income (AGI), the deductions were subtracted from the countable income of \$[REDACTED], to equal \$[REDACTED]

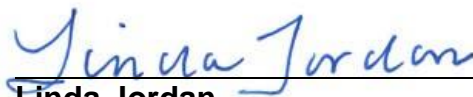
Next, MDHHS is required to determine the excess shelter deduction. MDHHS budgeted \$579.00 for Petitioner's excess shelter deduction. This was based on housing expenses of \$886.00, and the heat and utility standard of \$680.00. Petitioner did not dispute these amounts or present evidence that they were inaccurate. Adding the amounts together equals \$[REDACTED] (Exhibit A, p. 14). To determine the excess shelter deduction, 50% of the AGI is subtracted from the total shelter amount. Subtracting 50% of Petitioner's AGI, or \$[REDACTED], from Petitioner's total shelter amount of \$[REDACTED] equals \$[REDACTED]. Therefore, MDHHS properly determined Petitioner's excess shelter deduction of \$[REDACTED]. To determine Petitioner's net income for FAP, MDHHS subtracted the excess shelter deduction of [REDACTED] from Petitioner's AGI of \$[REDACTED] to equal \$[REDACTED]. A household of one with a net income of \$[REDACTED] is entitled to receive \$23.00 per month in FAP benefits. RFT 260 (October 2023), p. 20.

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 MDHHS acted in accordance with Department policy when it determined Petitioner's FAP benefit rate.

### **DECISION AND ORDER**

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

LJ/pt



**Linda Jordan**

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**  
Kimberly Kornoelje  
Kent County DHHS  
121 Martin Luther King Jr St SE Ste 200  
Grand Rapids, MI 49507  
**MDHHS-Kent-Hearings@michigan.gov**

**Interested Parties**

BSC3  
M Holden  
B Cabanaw  
N Denson-Sogbaka  
MOAHR

**Via-First Class Mail:**

**Petitioner**

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