



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
SUZANNE SONNEBORN
EXECUTIVE DIRECTOR

MARLON I. BROWN, DPA
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: November 14, 2024
MOAHR Docket No.: 24-011604
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Caralyce M. Lassner

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 by telephone on November 12, 2024. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Kendra Williams, Eligibility Specialist.

ISSUE

Did the Department properly determine Petitioner's Food Assistance Program (FAP) benefits effective March 1, 2024?

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 receipt of FAP for a one-person FAP group in the amount of \$249 per month. (Exhibit A, pp. 9 – 10).
2. On July 10, 2024, the Department received a change report from Petitioner that disclosed that Petitioner had moved and had a change in rent and a new monthly obligation for a loan from [REDACTED] [REDACTED] (Creditor). (Exhibit A, pp. 16 – 17).
3. On July 15, 2024, the Department sent Petitioner a Notice of Case Action (NOCA) that approved Petitioner for FAP benefits in the amount of \$208 per month effective August 1, 2024 ongoing. (Exhibit A, pp. 27 – 29).

4. On October 14, 2024, the Department received a verbal request for hearing from Petitioner¹. Petitioner disputed the Department's failure to budget Petitioner's monthly obligation to Creditor when it determined her monthly FAP benefit. (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. 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 to dispute the amount of her monthly FAP benefit. Based on a change report submitted by Petitioner, the Department approved Petitioner for \$208 per month for a one-person FAP group effective August 1, 2024 ongoing.

To determine whether the Department properly calculated Petitioner's FAP benefit amount, the Department begins with the client's countable earned and unearned income. BEM 500 (April 2022), pp. 1 – 5. For Retirement, Survivors, and Disability Insurance (RSDI) income, the Department counts the gross benefit amount as unearned income. BEM 503 (April 2024), pp. 30 – 32. In this case, the Department and Petitioner agreed that Petitioner's total monthly income was from RSDI, in the amount of \$1,111.

After countable income is calculated, the Department must determine which deductions are available to Petitioner. Because Petitioner is over 60 years old or disabled, the Department has determined that she is considered a senior/disabled/veteran (SDV) household. BEM 550 (February 2024), p. 1. Households with SDV members with unearned income may be eligible for the following deductions only:

- Standard deduction based on group size.
- Dependent care expense.

¹ Petitioner originally requested a hearing on August 8, 2024 and a hearing was scheduled for September 12, 2024 in Michigan Office of Administrative Hearings and Rules (MOAHR) Case No. 24-009226. Petitioner failed to appear at the hearing and a dismissal was issued on September 13, 2024. However, Petitioner's second request for hearing was received by the Department by the deadline set forth on the July 15, 2024 NOCA.

- 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 (July 2024) p. 1; BEM 556 (May 2024) pp. 4 – 6.

Petitioner was entitled to, and received, a \$198 standard deduction from her countable income based on her one-person FAP group size. BEM 550, p. 1; RFT 255 (October 2023). (Exhibit A, p. 24). Petitioner did not report any medical expenses or health insurance premiums in excess of \$35, dependent care expenses, or court ordered child support expenses, and the Department properly did not include deductions for those expenses. (Exhibit A, p. 24).

Next, the Department determines any excess shelter expense deduction. To start, the Department first calculates Petitioner's adjusted gross income (AGI) by subtracting the allowable deductions outlined above from the countable income. As discussed, the evidence established that Petitioner's countable income was \$1,111 and that she was only entitled to the standard deduction of \$198, which resulted in AGI of \$913.

To complete the excess shelter deduction calculation, the Department reviews Petitioner's housing and utility expenses, if any. Allowable housing expenses include the required monthly payment for continuing rent, mortgage, a second mortgage, home equity loan, required condo or maintenance fees, lot rental, or other payments including interest, leading to ownership of the shelter occupied by the FAP group. BEM 554, p. 15. Housing expenses may be verified with mortgage, rental or condo maintenance fees contracts, or a statement from the landlord, bank, or mortgage company. BEM 554, p. 16.

Here, Petitioner reported that her monthly housing expenses had changed and included \$415 for lot rent and \$150 for repayment of a loan from Creditor for the purchase of Petitioner's home, a security deposit, and for her first month's rent. (Exhibit A, pp. 16 - 17; Exhibit B, p. 1). There was no dispute that the Department budgeted Petitioner's lot rent when it determined her excess shelter deduction. (Exhibit A, p. 26). However, the Department testified that Petitioner's loan obligation to Creditor was not an eligible housing expense and did not include it when the Department calculated Petitioner's excess shelter deduction. (Exhibit A, p. 26). During the hearing, Petitioner testified that she is the sole titled owner of her home and that Creditor does not have a recorded lien against Petitioner's home. Additionally, a review of the repayment agreement between Petitioner and Creditor does not reflect the loan to be secured by Petitioner's home. (Exhibit B, p. 1). Because Petitioner is the sole owner of her home and Petitioner's obligation to Creditor is not one that will *lead to* ownership of her home, and the loan agreement is not secured by Petitioner's home, the Department properly excluded that obligation when determining Petitioner's excess shelter deduction.

The Department and Petitioner agreed that Petitioner was responsible for payment of her heating or cooling expenses. A FAP group that has heating and utility costs including cooling, separate from the rental payment, is entitled to a heat and utility (h/u) standard amount to be included in the calculation of the excess shelter deduction. BEM 554, p. 17. The h/u standard is the most favorable utility standard available to a client, and FAP groups that receive the h/u standard do not receive any other individual utility standards. BEM 554, p. 16. Until October 1, 2024, the standard amount was \$680. RFT 255 (October 2023). Because Petitioner does pay for heat and other utilities for the household, the Department properly used the amount of \$680 for h/u when calculating Petitioner's excess shelter expense. (Exhibit A, p. 26).

Once Petitioner's housing and utility expenses have been determined, the Department must add those amounts together for a total shelter amount and then subtract 50% of Petitioner's AGI from the total shelter amount. BEM 556, pp. 5 – 6. This determines Petitioner's excess shelter deduction. The total of Petitioner's monthly lot rent of \$415 and the h/u standard of \$680 was \$1,095. When 50% of Petitioner's \$913 AGI, in the amount of \$456, is subtracted from the total shelter amount of \$1,095, Petitioner's excess shelter deduction was \$639. When Petitioner's excess shelter deduction of \$639 is subtracted from her AGI of \$913, Petitioner's net income was \$274. (Exhibit A, pp. 24, 26). The Department's calculations were made consistent with policy.

Once the net monthly income has been determined in accordance with FAP policy, the Department determines what benefit amount Petitioner is entitled to, based on the group size, according to the Food Assistance Issuance Table found in RFT 260. Based on Petitioner's one-person FAP group size and net income of \$274, the Department properly determined Petitioner's monthly benefit amount of \$208 for August 1, 2024 ongoing. RFT 260 (October 2023), p. 4.

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 FAP benefit amount effective August 1, 2024 ongoing.

DECISION AND ORDER

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

CML/nr



Caralyce M. Lassner
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
Chelsea McCune
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13041 E 10 Mile
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Interested Parties
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Via-First Class Mail :

Petitioner
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[REDACTED] MI [REDACTED]