



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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[REDACTED] MI [REDACTED]

Date Mailed: December 5, 2024
MOAHR Docket No.: 24-012295
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 December 2, 2024, from Detroit, Michigan. Petitioner appeared for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by Danielle Moton, Assistance Payments Supervisor.

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 an ongoing recipient of FAP benefits in the amount of \$520. In connection with a Semi-Annual, Petitioner's eligibility to receive FAP benefits was reviewed.
2. On or around August 16, 2024, Petitioner submitted a Semi-Annual Contact Report (Semi-Annual) to the Department. (Exhibit A, pp. 8-10)
3. On or around September 19, 2024, the Department sent Petitioner a Notice of Case action advising Petitioner that effective October 1, 2024, the household was approved for FAP benefits in the amount of \$67. (Exhibit A, pp. 13-19)
4. On or around October 17, 2024, Petitioner requested a hearing disputing the decrease in the amount of her monthly FAP benefits to \$67. (Exhibit A, pp. 3-5)

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.

In this case, Petitioner disputed the calculation of her FAP benefits, specifically, the decrease in her FAP allotment to \$67. The Department representative testified that after processing Petitioner's Semi-Annual review and including Petitioner's earned income in the FAP eligibility determination, it concluded that Petitioner was eligible for \$67 in FAP benefits for October 1, 2024, ongoing. The Department presented a FAP EDG Net Income Results Budget for the October 2024 benefit period which was thoroughly reviewed to determine if the Department properly calculated Petitioner's FAP benefits. (Exhibit A, pp. 20-21).

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. An employee's wages include salaries, tips, commissions, bonuses, severance pay, and flexible benefit funds not used to purchase insurance. The Department counts gross wages in the calculation of earned income. BEM 501 (January 2024), pp. 6-7. 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. In prospecting income, the Department is required to use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month, discarding any pay if it is unusual and does not reflect the normal, expected pay amounts. BEM 505, pp. 5-6. A standard monthly amount must be determined for each income source used in the budget. BEM 505, pp. 7-8. Biweekly income is converted to a standard amount by multiplying the average of the biweekly pay amounts by the 2.15 multiplier. BEM 505, pp. 7-9.

The budget shows earned income of [REDACTED] which the Department testified consists of Petitioner's employment earnings. The Department relied on paystubs submitted by Petitioner in connection with the Semi-Annual, and specifically considered [REDACTED] in gross income received on July 5, 2024, and [REDACTED] in gross income received on July 19, 2024. (Exhibit A, pp.23-25). When converted to a standard monthly amount, Petitioner has earned income of [REDACTED] While Petitioner confirmed that the paystubs were accurate,

Petitioner testified that her income fluctuates, and her weekly hours of employment are inconsistent. The Department representative testified that the Department was unaware prior to the hearing that Petitioner had fluctuating or inconsistent income. Petitioner was informed that should she submit updated pay stubs to the Department, the Department would determine whether using income from a 60 or 90 day period would be a more accurate reflection of Petitioner's earnings. Upon review however, based on the information available to the Department at the time the Semi-Annual was processed, the Department properly determined that the household had earned income of [REDACTED]

The Department considers the gross amount of money earned from Retirement Survivors Disability Insurance (RSDI) or Social Security in the calculation of unearned income for purposes of FAP budgeting. BEM 503 (April 2024), pp. 29-32. The Department concluded that Petitioner's household had unearned income in the total amount of [REDACTED] which included monthly RSDI for Petitioner's granddaughter. Petitioner confirmed the unearned income amount and thus, the Department properly calculated the unearned income.

The deductions to income on the net income budget were also reviewed. 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.
- An earned income deduction equal to 20% of any earned income.

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


The Department properly applied an earned income deduction of \$271, which is 20% of [REDACTED] earned income calculation. There was no evidence presented that Petitioner had any out-of-pocket dependent care, or child support expenses and therefore, the budget properly did not include any deduction for dependent care or child support expenses. See BEM 554. The Department properly applied a standard deduction of \$204 which was based on Petitioner's confirmed group size of two. RFT 255 (October 2024), p. 1. With respect to the calculation of the excess shelter deduction, the Department representative testified that with the Semi-Annual, Petitioner submitted verification that she is responsible for heat and utility expenses. The Department representative testified that Petitioner did not submit any housing expenses until October 30, 2024, when the Department received verification of summer property taxes in the amount of \$2,675.15. Although Petitioner testified that she submitted proof of her property taxes prior to October 30, 2024, Petitioner did not identify the date of submission. Therefore, the Department properly only considered the \$664 heat and utility (h/u) standard, which covers all heat and utility costs including cooling expenses. BEM 554, pp. 13-17. Petitioner was informed that the Department would reprocess expenses and apply the housing expenses to the FAP budget for future months.

After further review, the Department properly determined Petitioner's income [REDACTED] took into consideration the appropriate deductions to income. Based on net income of \$1,563, Petitioner's two person FAP group is eligible for \$67 in monthly FAP benefits. RFT 260 (October 2024), p. 22. 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 calculated Petitioner's FAP benefits.

DECISION AND ORDER

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

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

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Interested Parties

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Via First Class Mail:

Petitioner

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