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GOVERNOR

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

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DIRECTOR

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Date Mailed: January 16, 2025  
MOAHR Docket No.: 24-013324  
Agency No.: ██████████  
Petitioner: ██████████ ██████████

**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 January 8, 2025. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Jamila Goods, Eligibility Specialist. Lyle Pransch appeared and was sworn in as a witness on behalf of Petitioner.

**ISSUE**

Did the Department properly determine Petitioner's Food Assistance Program (FAP) benefit amount effective December 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. On ██████████ ██████████ 2024, the Department received an application for FAP assistance from Petitioner. (Exhibit A, pp. 11 – 18).
2. Petitioner's FAP group includes herself and her daughter, ██████████ (Daughter). (Exhibit A, p. 37).
3. Petitioner is ██████████ years old, disabled, and not married. Petitioner's household income is comprised of Retirement, Survivors, and Disability Insurance (RSDI) income of \$1,183 per month for herself, RSDI income of \$967 for her daughter, and State SSI Payment (SSP) in the prorated amount of \$14 per month.

4. On November 4, 2024, the Department sent Petitioner a Notice of Case Action (NOCA) that approved Petitioner for FAP benefits of \$68 per month for a two-person FAP group, effective December 1, 2024 ongoing. The NOCA included a budget summary. (Exhibit A, pp. 37 – 38).
5. On December 2, 2024, the Department received a request for hearing from Petitioner disputing the Department's determinations regarding the amount of her FAP benefit, specifically disputing that the budget summary on the NOCA properly reflected her household income and expenses. (Exhibit A, pp. 3 – 5).
6. On December 2, 2024, the Department sent Petitioner a NOCA that approved Petitioner for a FAP supplement of \$138 for the period of September 1, 2024 through October 31, 2024. (Exhibit A, pp. 48 – 50).

### **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 Department's calculation of her income and the amounts it included, and did not include, in Petitioner's monthly expenses. On November 4, 2024, the Department approved Petitioner for FAP benefits of \$68 per month, effective December 1, 2024 ongoing, for a two-person FAP group and included a budget summary on the NOCA.

As a preliminary matter, the Department introduced a FAP net income budget and an excess shelter deduction budget during the hearing. (Exhibit A, pp. 44 – 46). However, the budgets were completed as a result of changes in Petitioner's circumstances that arose after Petitioner's request for hearing and did not reflect the budget completed for the NOCA at issue in the instant hearing. Therefore, those budgets were not relevant to the issues addressed here and were not considered.

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. The Department counts the gross benefit amount of RSDI and SSP as unearned income. BEM 503 (October 2024), pp. 30 – 32,

37. In this case, the Department and Petitioner agreed that the FAP group receives RSDI income in the amount of \$2,150 per month. The Department testified that Petitioner also receives a quarterly SSP of \$42, with the most recent payment issued on December 9, 2024. And although Petitioner disputed that she still receives SSP, there was no evidence she does not. However, the evidence established that Department only budgeted total unearned income of \$2,111 for Petitioner's FAP group when it issued the November 4, 2024 NOCA, which was less than Petitioner's actual unearned income.

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

- Standard deduction based on group size.
- Dependent care expense.
- 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 (October 2024) p. 1; BEM 556 (October 2024) pp. 4 – 6.

SDV groups who verify one-time or ongoing medical expenses in excess of \$35 for the SDV member will receive a standard medical deduction of \$165 unless the group has actual medical expenses in a higher amount and verify those actual expenses. BEM 554, pp. 11 – 13.

There was no dispute that Petitioner was entitled to, and received, a \$204 standard deduction from her countable income based on her two-person FAP group size. BEM 550, p. 1; RFT 255 (October 2024). The Department testified, and Petitioner confirmed, that she did not report any dependent care expenses or court ordered child support expenses, and no deductions for those expenses are reflected on the budget. And although the evidence established that the Department deducted \$165 for medical expenses based on Petitioner's payment of Medicare Part B premiums, during the hearing the Department testified that on December 2, 2024, it approved Petitioner for the Medicare Savings Program (MSP) effective August 1, 2024 and that Petitioner had not reported or verified any additional medical expenses.

Next, the Department must determine 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. Then, the Department must review Petitioner's housing and utility expenses. When a FAP group has heating and other utility expenses, separate from their housing payment, it is

entitled to a heat and utility (h/u) standard amount to be included in the calculation of the excess shelter deduction, which is the highest amount available to FAP groups who pay utilities. BEM 554, p. 17. The h/u standard amount is \$664. (RFT 255). FAP groups that qualify for the h/u standard do not receive any other individual utility standards, such as water/sewer or telephone. BEM 554, p. 17. However, effective October 1, 2024, when a FAP group is responsible to pay for an internet service (at least the basic service), it is also eligible for an internet standard amount of \$50. BEM 554, p. 26; RFT 255. 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 calculation determines Petitioner's excess shelter deduction. For SDV groups, the excess shelter deduction is then deducted from Petitioner's AGI to determine her net income. Once the net monthly income has been determined under the FAP program, 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.

Here, the Department testified that during her application interview, Petitioner reported that her housing expense was \$1,110 which included her utilities and that she was only responsible for a telephone expense. And although the evidence established that the housing and utility expenses Petitioner reported on her August 17, 2024 application were consistent with the Department's testimony, Petitioner testified during the hearing that her housing expense was \$800 and that she pays for heat and other utilities plus internet, and neither the Department's nor Petitioner's testimony was consistent with the budget summary included on the November 4, 2024 NOCA.

Because the budget summary on the November 4, 2024 NOCA was not consistent with the Department's or Petitioner's testimony as to Petitioner's expenses, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Petitioner's net income. Additionally, as explained previously, the Department's determination of Petitioner's income was understated and based on the Department's approval of Petitioner for MSP effective August 1, 2024, Petitioner does not have a medical expense in excess of \$35. Therefore, based on the foregoing, the Department did not establish that it properly determined Petitioner was eligible for FAP benefits of \$68 per month for her two-person FAP group effective December 1, 2024.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Petitioner was eligible for FAP benefits of \$68 per month for a two-person FAP group effective December 1, 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. Redetermine Petitioner's eligibility for FAP benefits effective December 1, 2024 ongoing, requesting verifications if necessary;
2. If Petitioner is eligible for any supplemental FAP benefits, issue supplemental payments to Petitioner for any FAP benefits she was eligible to receive but did not, from December 1, 2024 ongoing; and
3. Notify Petitioner of its decision in writing.

CML/nr

  
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**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**

Susan Noel  
Wayne-Inkster-DHHS  
26355 Michigan Ave  
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**MDHHS-Wayne-19-Hearings@michigan.gov**

**Interested Parties**

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M. Holden  
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B. Cabanaw  
MOAHR

**Via-First Class Mail :**

**Petitioner**

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