



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

MARLON BROWN
DIRECTOR

[REDACTED]
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[REDACTED] MI [REDACTED]

Date Mailed: January 15, 2025
MOAHR Docket No.: 24-013408
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 January 9, 2025, from Detroit, Michigan. Petitioner appeared for the hearing and represented himself. The Department of Health and Human Services (Department) was represented by Lori Turner, Eligibility Specialist.

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 is an ongoing recipient of FAP benefits.
2. Petitioner's household includes himself and his wife. Petitioner confirmed that his wife is not a United States citizen and that his wife has been a legal permanent resident since December 3, 2023.
3. Petitioner was approved for FAP benefits in the amount of \$51 effective October 1, 2024.
4. On or around December 2, 2024, Petitioner requested a hearing disputing the amount of his FAP benefits for the month of October 2024. (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.

The State SSI Payments (SSP) program is established by 20 CFR 416.2001-.2099 and the Social Security Act, 42 USC 1382e. The Department administers the program pursuant to MCL 400.10.

In this case, Petitioner disputed the \$51 FAP allotment for the month of October 1, 2024. The Department testified that Petitioner was approved for FAP benefits of \$51 for the months of October 2024, November 2024, and December 2024. The Department testified that although Petitioner's household included himself and his wife, Petitioner's wife was a disqualified member of the FAP group because she failed to meet the citizenship/alien status eligibility requirement and thus, Petitioner's FAP allotment was based on a group size of one. Petitioner confirmed that his wife is not a United States citizen and that his wife has been a legal permanent resident since December 3, 2023. There was no evidence presented that Petitioner's wife met any of the criteria outlined in BEM 225 in order to receive FAP benefits. See BEM 225. Therefore, because Petitioner's wife does not meet any of the criteria for FAP eligibility, the Department properly disqualified her from the FAP group and determined that the FAP group consisted of only Petitioner. The Department presented a FAP EDG Net Income Results Budget which was thoroughly reviewed to determine if the Department properly calculated Petitioner's FAP benefits.

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.

The Department considers the gross amount of money earned from Retirement Survivors Disability Insurance (RSDI) or Social Security and Supplemental Security Income (SSI) in the calculation of unearned income for purposes of FAP budgeting. BEM 503 (October 2024), p. 29-35. For an individual who lives in an independent living situation, State SSI Payments (SSP) are issued quarterly in the amount of [REDACTED] and the payments are issued in the final month of each quarter; see BEM 660. The Department will count the monthly SSP benefit amount [REDACTED] as unearned income. BEM 503, pp. 35-37; BEM 660 (October 2021), pp. 1-2; RFT 248 (January 2024), p. 1. BEM 503 (April 2024), pp. 29-35.

The Department concluded that Petitioner's household had unearned income in the total amount of [REDACTED]. Specifically, the Department considered [REDACTED] in SSI for Petitioner, [REDACTED] in RSDI/Social Security for Petitioner, and the [REDACTED] SSP for Petitioner. Petitioner did not dispute the amounts of his unearned income. Petitioner's total unearned income was properly determined to be [REDACTED]. The Department representative testified that Petitioner's wife receives [REDACTED] in RSDI/Social Security monthly, which Petitioner also did not dispute.

In determining FAP eligibility for groups with disqualified members, the Department is to budget a pro-rata share of earned and unearned income of a person who is disqualified for not meeting citizenship/alien status requirements. BEM 550 (October 2024), pp. 2-3. The pro-rata share of Petitioner's wife's income is allocated to the FAP household using the following formula: (1) the number of eligible FAP group members is added to the number of disqualified persons that live with the FAP group; (2) the disqualified person's income is divided by the number of persons in step 1; and (3) the result in step 2 is multiplied by the number of eligible FAP group members. BEM 550, pp. 3-4.

In this case, Petitioner and his wife live in the same household and each have unearned income. Using the pro-rata rules, one half of Petitioner's wife's income should have been considered in calculating Petitioner's FAP group's benefit eligibility. Because one half of Petitioner's wife's unearned income of [REDACTED] is [REDACTED], the Department properly determined that Petitioner's wife had countable unearned income of [REDACTED]. Therefore, the Department properly calculated the total unearned income in the household of [REDACTED] attributable to Petitioner and [REDACTED] attributable to Petitioner's wife.

The deductions to income on the net income budget were also reviewed. Petitioner's FAP group includes a senior/disabled/veteran (SDV) member. BEM 550 (October 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.
- Medical expenses for the SDV member(s) that exceed \$35.
- An earned income deduction equal to 20% of any earned income.

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

Petitioner's group did not have any earned income, thus, there was no applicable earned income deduction. There was no evidence presented that Petitioner had any out-of-pocket dependent care, child support, or medical expenses that were submitted to the Department for consideration and therefore, the budget properly did not include any deduction for dependent care, child support, or medical expenses. See BEM 554. The Department properly applied a standard deduction of \$204 which was based on Petitioner's confirmed group size of one. RFT 255 (October 2024), p. 1. With respect to the calculation of the excess shelter deduction, the Department representative testified


that it considered Petitioner's responsibility for monthly rent of \$600 and the telephone standard of \$30. Although Petitioner testified that his monthly rent has since increased to \$700, Petitioner confirmed that in October 2024, his rental expense was \$600 and that his rent included heat, electric, water, and other utility expenses. Therefore, the Department properly only considered the \$30 telephone standard and upon review, the Department properly determined that Petitioner was eligible for an excess shelter deduction of \$153.

After further review, the Department properly determined Petitioner's income and took into consideration the appropriate deductions to income. Based on net income of [REDACTED] Petitioner's one person FAP group is eligible for \$51 in monthly FAP benefits. RFT 260 (October 2024), p. 12. 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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