



GRETCHEN WHITMER  
GOVERNOR

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

MARLON I. BROWN, DPA  
DIRECTOR

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Date Mailed: January 29, 2025  
MOAHR Docket No.: 24-013849  
Agency No.: ██████████  
Petitioner: ██████████

**ADMINISTRATIVE LAW JUDGE: Julia Norton**

**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 22, 2025. Petitioner was present and self-represented. The Department of Health and Human Services (Department) was represented by Quron Williamson, Eligibility Specialist.

**ISSUE**

Did the Department properly determine Petitioner's eligibility for 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. On or about October 2024, Petitioner was laid off from ██████████ (Employer).
2. On November 5, 2024, the Department received Petitioner's application for FAP benefits. Petitioner's application listed her income as "unemployment" and "other." Exhibit A, pp. 7-13.
3. Petitioner is █ years old and resides with her minor child.
4. On December 4, 2024, the Department sent Petitioner a Notice of Case Action (NOCA) informing her that she was eligible for FAP benefits of \$19.00 per month effective November 6, 2024 to November 30, 2024 and \$23.00 per month effective December 1, 2024 to October 31, 2025 for a group size of two. Exhibit A, pp. 31-35.

5. On December 16, 2024, the Department received Petitioner's Unemployment Insurance (UI) payment history reflecting payments issued on October 18, 2024 for [REDACTED] November 14, 2024 for [REDACTED] November 26, 2024 for [REDACTED] and December 10, 2024 for [REDACTED] Exhibit A, p. 28.
6. On December 16, 2024, the Department received Petitioner's layoff income check stubs from Employer reflecting payments on October 25, 2024 for [REDACTED] for the period of September 30 to October 13, 2024; November 22, 2024 for [REDACTED] for the period of November 4 to November 10, 2024; December 6, 2024 for [REDACTED] for the period of November 11 to November 24, 2024. Exhibit A, pp. 22-26.
7. On December 16, 2024, the Department received Petitioner's request for hearing disputing the Department's actions in her Medicaid (MA) and FAP cases. 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).

Petitioner filed a hearing request to dispute the Department's determination of her eligibility for MA and FAP. At the commencement of the hearing, Petitioner withdrew her hearing request regarding MA. Therefore, Petitioner's hearing request regarding **MA** is **DISMISSED**.

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 Department's determination of her monthly income.

To determine whether the Department properly calculated Petitioner's FAP benefit rate, the evaluation first starts with consideration of all countable earned and unearned income available to the group. BEM 500 (April 2022), pp. 1-5. 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), p. 1. 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. 4-9. A standard monthly amount must be

determined for each income source used in the budget. BEM 505, pp. 8-9. The standardized income is determined by averaging the income received and multiplying it by 4.3 for amounts received weekly; by 2.15 for amounts received every two weeks; and adding amounts received twice a month. *Id.* Department policy further provides that it should seek input from clients whenever possible when prospecting income. *Id.*, p.1.

Here, Petitioner reported being laid off from her job temporarily effective October 2024 and indefinitely effective November 4, 2024. The Department testified that it used the 30-day period of November 9, 2024 to December 7, 2024 to determine Petitioner's monthly income. The Department considered the UI income and testified that this income was [REDACTED] bi-weekly. The Department also considered the layoff income from Employer of [REDACTED] bi-weekly. Both sources of income are considered unearned income and the gross amounts are counted. BEM 503 (January 2025), p. 38. Sometimes unemployment benefits are reduced because the individual has earnings. *Id.* Petitioner did not dispute the Department's calculation of the layoff income from Employer.

Petitioner specifically disputed the UI income the Department included in the FAP budget. Petitioner explained that she does not receive [REDACTED] bi-weekly and that her UI income is reduced because she receives layoff income from Employer. On her application, Petitioner reported that she received both "unemployment" and "other" income. Petitioner testified that she only receives partial unemployment benefits of [REDACTED] once per month. Petitioner had previously provided the Department with a UI payment history that listed payments of [REDACTED] on October 18, 2024, [REDACTED] on November 14, 2024, [REDACTED] on November 25, 2024 and [REDACTED] on December 10, 2024. Exhibit A, p. 28. The Department explained that it reviewed the Consolidated Income Inquiry (CI) which showed that Petitioner was issued UI income payments of [REDACTED] on October 19, 2024, [REDACTED] on November 16, 2024 and [REDACTED] on November 30, 2024. Exhibit B, p. 2. The Department included full unemployment benefits of [REDACTED] bi-weekly in the FAP budget. However, neither the CI nor the UI payment history established that Petitioner was receiving UI income payments of [REDACTED] on a bi-weekly basis. During the 30-day period from November 9, 2024 to December 7, 2024, both the CI and the UI payment history reflected two UI income payments totaling only [REDACTED]. Further, because Petitioner had reported other income at application, the Department was on notice that she would not be eligible for full unemployment benefits of [REDACTED] bi-weekly. Based on the foregoing, the Department did not properly determine Petitioner's monthly UI income.

Because the Department did not establish that it properly determined Petitioner's monthly UI income, there is insufficient evidence to determine Petitioner's excess shelter deduction, net income or resulting monthly FAP benefit amount. Thus, the Department failed to satisfy its burden of showing that it properly determined Petitioner's FAP monthly benefits.

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's FAP eligibility.

**DECISION AND ORDER**

Accordingly, Petitioner's hearing request regarding **MA** is **DISMISSED** based on Petitioner's hearing request withdrawal.

The Department's decision regarding **FAP** 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 in accordance with Department policy for November 6, 2024 ongoing;
2. If Petitioner is eligible for FAP benefits, supplement Petitioner for FAP benefits she is eligible to receive from November 6, 2024 ongoing; and
3. Notify Petitioner of its decision in writing.



JN/ml

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**Julia Norton**  
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  
Macomb County DHHS Warren Dist.  
13041 E 10 Mile  
Warren, MI 48089  
**MDHHS-Macomb-20-Hearings@michigan.gov**

**Interested Parties**

BSC4  
M Holden  
B Cabanaw  
N Denson-Sogbaka  
MOAHR

**Via First Class Mail:**

**Petitioner**

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