



Date Mailed: March 4, 2025

Docket No.: 25-004750

Case No.: [REDACTED]

Petitioner: [REDACTED]

«RECIP\_FULL\_NAME»

«RECIP\_ADD0»

«RECIP\_ADD1»

«RECIP\_ADD2»

«RECIP\_CITY», «RECIP\_SPCODE»

«RECIP\_POSTAL»

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এটি একটি গুরুত্বপূর্ণ আইনি ডকুমেন্ট। দয়া করে কেউ দস্তাবেজ অনুবাদ করুন।

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Ky është një dokument ligjor i rëndësishëm. Ju lutem, kini dikë ta përktheni dokumentin.

### **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 February 24, 2025. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Rosemary Molsbee-Smith, Eligibility Specialist.

### **ISSUE**

Did the Department properly determine Petitioner's Food Assistance Program (FAP) benefit amount?

### **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 [REDACTED] 2021, Petitioner and her husband [REDACTED] (Spouse) became permanent residents of the United States (US). (Exhibit A, pp. 37, 39).
2. On [REDACTED] 2024, the Department received a completed redetermination application for FAP and Medicaid (MA) from Petitioner. Petitioner reported the household included herself, Spouse, and their four minor children (Children).

Petitioner reported that three of the children were disabled, that Spouse's employment with [REDACTED] (Employer) was the sole source of income to the household, and reported that she paid all expenses including the family's housing. (Exhibit A, pp. 6 – 10).

3. On January 23, 2025, the Department interviewed Petitioner and she reported that she was a student, was not employed, and was not a [REDACTED] Loan recipient. There were no disabilities reported during the interview. (Exhibit A, pp. 11 – 17).
4. On January 23, 2025, the Department sent Petitioner a Notice of Case Action (NOCA) that approved Petitioner for FAP benefits of \$9 per month effective February 1, 2025 ongoing, for a four-person FAP group that included Children only. The NOCA did not identify Petitioner or Spouse as ineligible for FAP benefits. The budget summary reflected earned income, a standard deduction, and that the Department considered heat and utility expenses only when it determined the FAP benefit amount. (Exhibit A, pp. 23 – 24).
5. On January 27, 2025, the Department received a request for hearing from Petitioner disputing the amount of the FAP benefit. (Exhibit A, p. 4).
6. On January 31, 2025, the Department sent Petitioner a NOCA that approved Petitioner for FAP benefits of \$120 per month effective February 1, 2025 ongoing, for a four-person FAP group that included Children only. The NOCA did not identify Petitioner or Spouse as ineligible for FAP benefits. The budget summary reflected earned income, a standard deduction, and that the Department considered heat and utility and internet expenses only when it determined the FAP benefit amount. (Exhibit A, pp. 30 – 31).
7. On February 5, 2025, the Department conducted a pre-hearing conference with Petitioner and she reported that Spouse is responsible for payment of the family's housing expense. (Exhibit A, p. 45, Serial No. 103).
8. On February 7, 2025, the Department sent Petitioner a NOCA that approved Petitioner for FAP benefits of \$207 per month, effective March 1, 2025 ongoing.

### **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 FAP group's monthly benefit. On January 31, 2025, the Department approved Petitioner's four-person FAP group for \$120 in monthly FAP benefits effective February 1, 2025.

As a preliminary matter, based on additional information Petitioner provided to the Department during the pre-hearing conference, the Department increased the FAP group's benefit to \$207 per month for the four-person group effective March 1, 2025 ongoing. Because the Department's subsequent actions were based on information provided by Petitioner after her request for hearing, this decision will only address the Department's actions through the NOCA issued on January 31, 2025. If Petitioner disputes a determination made by the Department after January 31, 2025, she may request a hearing on that issue.

Each time the Department evaluates eligibility of a person and household for FAP benefits, it must determine who must be included in the FAP group. BEM 212 (October 2024), p. 1. People who live together and purchase and prepare food together must be included in the same group. BEM 212, p. 1. Additionally, parents and their children under the age of 22 who reside together must be included in the same group. BEM 212, p. 1. However, individuals are ineligible for FAP benefits if they are excluded from the group due to student status and fail to meet the criteria set forth in BEM 245, or are disqualified because they do not meet citizenship/non-citizen status requirements. BEM 212, pp. 8, 10. The income of a non-group member is not considered when determining a FAP group's eligibility; however, the income of disqualified individuals is prorated according to the number of qualified individuals in the FAP group. BEM 550 (October 2024), pp. 3 – 4.

For purposes of FAP, a person is in student status if they are age 18 – 49 and enrolled half-time or more in a) a vocational, trade, business, or technical school that usually requires a high school diploma or GED, or b) at college or university that offers degree programs regardless of whether a diploma is required. BEM 245 (July 2023), pp. 3 – 4. In order for a person in student status to be eligible for FAP benefits, they must meet at least one of the criteria listed in the student status policy, such as maintaining employment for an average of 20 hours per week, be enrolled in the Perkins program, or be working in a state or federally-funded work study program, among other things. BEM 245, pp. 3 – 6. A person in student status who does not meet the criteria set forth in BEM 245 is deemed an ineligible student and is excluded from the FAP group. BEM 212, p. 10.

The status of non-citizens must be determined at application, redetermination, and when a change is reported. BEM 212, p. 8; BEM 225 (November 2024), p. 1. A non-

citizen who is at least 18 years old must have lived in the US as a qualified non-citizen for at least five years since their date of entry to be eligible for FAP benefits. BEM 225, pp. 1, 11. A non-citizen who does not meet the requirements of BEM 225 is disqualified from receipt of FAP benefits.

In this case, there was no dispute that Petitioner is a full-time student at a local university and is not employed. Additionally, Petitioner testified that she does not have a Perkins loan or participate in work study, and there was no evidence she was otherwise eligible for FAP as a full-student. Therefore, the Department properly excluded Petitioner from the FAP group.

The evidence also established that Petitioner and Spouse are both over [REDACTED] years old and have been permanent residents since [REDACTED] 2021. Because Petitioner and Spouse are non-citizens who have not yet lived in the US for at least five years, the Department properly disqualified both from receiving FAP benefits at this time.

Once the Department determines the members of the FAP group, and whether each are qualified or disqualified, the Department must determine the group's countable income. Countable income is gross income that is not specifically excluded. BEM 500 (April 2022), p. 3. Gross income is the amount of income before any deductions such as taxes or garnishments to repay a debt or meet a legal obligation. BEM 500, p. 4. To calculate future benefit months, the Department prospectively the group's income to determine the best estimate of the group's expected income. BEM 505 (October 2023), pp. 1, 6. Prospective income is income not yet received, but expected, and is based on the past 30 days when that income appears to accurately reflect what is expected to be received in the benefit month, disregarding any pay that is unusual, such as unusual overtime or lack of work. BEM 505, pp. 1, 6. For the purposes of FAP, the Department must convert income that is received more often than monthly into a standard monthly amount. The average of weekly amounts is multiplied by 4.3. BEM 505, pp. 8 – 9.

Here, a review of the evidence established that the Department used Spouse's income from December 20, 2024 through January 24, 2025, excluding Spouse's income from January 3, 2025 and January 10, 2025 as unusual, to calculate the group's countable income and properly determined the standardized monthly income was \$[REDACTED]. (Exhibit A, pp. 21, 41). Because Petitioner is not a member of the group while Spouse is only disqualified, policy required that the Department prorate Spouse's income among five group members, comprised of Spouse and Children. BEM 550, pp. 3 – 4.

Here, the Department explained that it included Petitioner in the group when it prorated Spouse's income based on a FAP group of six. Because the Department's action of prorating Spouse's income for six people, rather than five, was more favorable to Petitioner, the undersigned will accept the Department's representations as to the group size as correct for purposes of prorating the budgetable income. A review of the evidence established that when the standardized monthly income of \$[REDACTED] was divided by a total of six group members, which equaled \$[REDACTED], and multiplied that by the number

of eligible group members, the Children only, the Department properly determined the group's countable income was \$[REDACTED]. (Exhibit A, p. 42).

Once countable income has been calculated, the Department must determine whether the group is entitled to any deductions from that income. There was no evidence that the group included a senior, disabled individual, as determined by the Department, or a disabled veteran (SDV). FAP groups with earned income and no SDV members are entitled to the following deductions:

- A 20% earned income deduction.
- Standard deduction based on group size.
- Dependent care expense.
- Court ordered child support and arrearages paid to non-household members.
- Excess shelter deduction up to the maximum allowed in RFT 255.

BEM 550 (February 2024), p. 1; BEM 554 (January 2024) p. 1; BEM 556 (January 2023) pp. 3 – 6.

The Department introduced a net income budget during the hearing in support of its calculations. (Exhibit A, p. 42). Because there was no evidence that the group had any dependent care expense or child support obligations, the Department's budget established that it properly deducted only the 20% earned income deduction of \$[REDACTED] and the allowable standard deduction for a four-person FAP group of \$217 from the group's countable income. BEM 550, p. 1; RFT 255 (October 2024).

Next, the Department determines any excess shelter expense deduction. To start, the Department first calculates the group's adjusted gross income (AGI) by subtracting the allowable deductions outlined above from the countable income. Based on the budgeted earned income, the group's gross income was \$[REDACTED]. Once the standard earned income deduction of \$[REDACTED] and the standard deduction of \$[REDACTED] was applied, the group's AGI was \$[REDACTED]. To complete the excess shelter deduction calculation, the Department reviews the group's housing and utility expenses, if any.

Because Petitioner reported on the redetermination application that she was responsible for the group's housing expense, and she was not a member of the FAP group, the Department properly budgeted \$0 for the group's housing expense. BEM 554 (January 2025), p. 5.

Petitioner also initially reported that she paid for heat and other utilities, and later reported that she also paid for internet. When a FAP group has heating and other utility expenses separate from the rental 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 (October 2024). When a FAP group also has an internet expense it is also entitled to a \$50 standard amount to be included in the calculation of the excess shelter deduction. BEM 554, p. 26, RFT 255. Although Petitioner was not a member of the FAP group, the Department used the h/u standard amount and the internet standard amount when it calculated the group's excess shelter expense. (Exhibit A, p. 44). Because inclusion of the h/u and internet standards were favorable to the FAP group, the undersigned will accept the Department's inclusion of the h/u standard and internet standard on the excess shelter deduction calculation as correct.

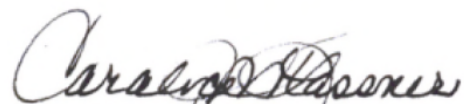
Once the group's housing and utility expenses have been determined, the Department must add those amounts together for a total shelter amount and then subtract 50% of the group's AGI from the total shelter amount. BEM 556 (October 2024), pp. 5 – 6. This determines the group's excess shelter deduction. Here, the total of the group's monthly housing of \$0, the h/u standard of \$664, and the internet standard of \$50, was \$714. When 50% of the group's \$8 AGI, in the amount of \$, is subtracted from the total shelter amount of \$, the group's excess shelter amount was \$0. Because the group did not have an excess shelter deduction, the group's net income remained \$.

Once the net monthly income has been determined under the FAP program, the Department determines what benefit amount the FAP group is entitled to, based on the group size, according to the Food Assistance Issuance Table found in RFT 260. Based on the four-person FAP group size and net income of \$, the Department properly determined the group's monthly benefit amount of \$120, effective February 1, 2025. RFT 260 (October 2024), p. 40.

### **DECISION AND ORDER**

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 group's benefit amount effective February 1, 2025.

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



**CARALYCE M. LASSNER**  
**ADMINISTRATIVE LAW JUDGE**

**APPEAL RIGHTS:** Petitioner may appeal this Hearing Decision to the circuit court. Rules for appeals to the circuit court can be found in the Michigan Court Rules (MCR), including MCR 7.101 to MCR 7.123, available at the Michigan Courts website at [courts.michigan.gov](https://courts.michigan.gov). The Michigan Office of Administrative Hearings and Rules (MOAHR) cannot provide legal advice, but assistance may be available through the State Bar of Michigan at <https://lrs.michbar.org> or Michigan Legal Help at <https://michiganlegalhelp.org>. A copy of the circuit court appeal should be sent to MOAHR. A circuit court appeal may result in a reversal of the Hearing Decision.

Either party who disagrees with this Hearing Decision may also send a written request for a rehearing and/or reconsideration to MOAHR within 30 days of the mailing date of this Hearing Decision. Requests MOAHR receives more than 30 days from the mailing date of this Hearing Decision may be considered untimely and dismissed. The request should include the group's name, the docket number from page 1 of this Hearing Decision, an explanation of the specific reasons for the request, and any documents supporting the request. The request should be sent to MOAHR

- by email to [MOAHR-BSD-Support@michigan.gov](mailto:MOAHR-BSD-Support@michigan.gov), **OR**
- by fax at (517) 763-0155, **OR**
- by mail addressed to  
Michigan Office of Administrative Hearings and Rules  
Rehearing/Reconsideration Request  
P.O. Box 30639  
Lansing Michigan 48909-8139

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**Via Electronic Mail:**

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**Interested Parties**

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**Via First Class Mail:**

**Petitioner**

[REDACTED]