



Date Mailed: April 28, 2025

Docket No.: 25-011627

Case No.: [REDACTED]

Petitioner: [REDACTED]

«RECIP_FULL_NAME»

«RECIP_ADD0»

«RECIP_ADD1»

«RECIP_ADD2»

«RECIP_CITY», «RECIP_SPCODE»

«RECIP_POSTAL»

This is an important legal document. Please have someone translate the document.

هذه وثيقة قانونية مهمة. يرجى أن يكون هناك شخص ما يترجم المستند.

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

Este es un documento legal importante. Por favor, que alguien traduzca el documento.

这是一份重要的法律文件。请让别人翻译文件。

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; 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 via telephone conference on April 24, 2025. Petitioner appeared and was represented by [REDACTED] Authorized Hearing Representative (AHR). The Michigan Department of Health and Human Services (MDHHS or Department) was represented by Sunshine Simonson, 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 was an ongoing recipient of FAP benefits in the amount of \$292. (Exhibit A, p. 10)
2. On an unverified date, the Department received check stubs, verifying Petitioner's income and employment. The Department processed the reported income change and recalculated Petitioner's FAP eligibility.

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3. On or around March 11, 2025, the Department sent Petitioner a Notice of Case Action advising him that effective April 1, 2025, his FAP benefits were decreased and he was approved for \$144 monthly. (Exhibit A, pp. 6-7)
 4. On or around March 24, 2025, Petitioner requested a hearing disputing the amount of his FAP benefits. Petitioner included a copy of the March 11, 2025, Notice of Case Action with the hearing request. (Exhibit A, pp. 3-7)

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 requested a hearing disputing the Department's actions with respect to his FAP case, specifically, the decrease in his FAP benefits effective April 1, 2025. At the hearing, the Department representative testified that after receiving income verification from Petitioner, the Department recalculated his FAP budget and determined that Petitioner was eligible for \$144 in FAP benefits effective April 1, 2025. Although there was some testimony that Petitioner's FAP benefits were further reduced to \$23 effective May 1, 2025, this action did not occur until after Petitioner's request for hearing was submitted. The Department notified Petitioner of the decrease to \$23 effective May 1, 2025, through the issuance of a Notice of Case Action dated April 1, 2025. (Exhibit A, pp. 40-47). Therefore, this is considered a subsequent negative action that the undersigned does not have the authority to address pursuant to BAM 600. Petitioner was advised that should he dispute the decrease in his FAP benefits to \$23 effective May 1, 2025, he is entitled to submit a new hearing request.

The Department presented FAP EDG Net Income Results Budget for the April 2025 benefit period which was thoroughly reviewed to determine if the Department properly calculated the Petitioner's FAP benefits in the amount of \$144. (Exhibit A, pp. 34-35).

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. Income received biweekly 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 biweekly earnings from his employment. The Department testified that it considered income information from the paystubs submitted as well as the Work Number, both of which were presented for review. Initially, the Department testified that it considered gross pay of [REDACTED] received on January 31, 2025, and [REDACTED] received on February 12, 2025. However, when converted to a standard monthly amount, the pay stubs identified do not result in total earned income of [REDACTED]. Later, the Department testified that it may have considered [REDACTED] received on February 12, 2025, and [REDACTED] received on February 28, 2025. Again, however, when converted to a standard monthly amount, the pay stubs identified do not result in total earned income of [REDACTED]. While Petitioner and the AHR did not dispute the accuracy of the gross earned income, Petitioner asserted that his net income is less, as child support is withheld from his biweekly paychecks. Additionally, there was some testimony that Petitioner's income fluctuates, as his hours of employment vary. Petitioner was advised that he could submit updated pay stubs to the Department for consideration. Upon review, the Department could not sufficiently explain how the earned income was determined.

The deductions to income on the net income budget were also reviewed. 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 (October 2024), p. 1; BEM 556 (October 2024), p. 1-8.

Because the Department failed to establish that the earned income was properly calculated, it follows that the Department failed to show that the earned income deduction of \$315 identified on the budget was also correct. There was no evidence presented that Petitioner had any out-of-pocket dependent care expenses that were submitted to the Department for consideration and therefore, the budget properly did not include any deduction for dependent care. See BEM 554. The Department properly applied a

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standard deduction of \$204 which was based on Petitioner's confirmed group size of one. RFT 255 (October 2024), p. 1.

Child support expenses are allowed for (i) the amount of court-ordered child support and arrearages paid by the household members to non-household members in the benefit month, (ii) court-ordered third party payments (landlord or utility company) on behalf of a non-household member, and (iii) legally obligated child support paid to an individual or agency outside the household for a child who is now a household member, provided the payments are not returned to the household. BEM 554, p. 6. The Department is not to consider more than the legal obligation if the client is up to date on their child support payments. However, if they are behind and making arrearage payments, the Department will allow the total amount paid even if it exceeds the court-ordered amount. Current and arrearage child support expenses must be paid to be allowed. BEM 554, pp.6-7. Current payments must be entered separately from arrearage payments on Bridges. A separate arrearage order is not needed to allow arrearage payments. If the Department verifies child support payments are court ordered, the original court order also serves as verification of the arrearage. BEM 554, p. 6. To verify the household's actual child support and arrearages paid, the Department will consider: wage withholding statements (paycheck stub), verification of withholding from unemployment compensation or other unearned income, statements from the custodial parent regarding direct payments, statements from the custodial parent regarding third party payments the noncustodial parent pays or expects to pay on behalf of the custodial parent, and/or data obtained from the state's Child Support Enforcement System (MICSES).BEM 554, pp. 6-7.

The budget shows a child support deduction of \$195.08, which the Department could not explain. Although a consolidated inquiry and child support search were presented for review, the Department could not identify which child support payments made by Petitioner were considered and whether the payments were current, arrearages, or both. Petitioner testified that he pays child support on behalf of three children. Two of whom are now adults, and one who is still a minor. Petitioner's AHR asserted that the payments are withheld from Petitioner's biweekly check stubs. It was unclear whether the withheld payments identified on the check stubs were the same as the child support reflected on the consolidated inquiry/child support search. Thus, in recalculating the budget, the Department shall obtain acceptable verification of current and arrearage child support payments in order to accurately calculate the child support deduction.

With respect to the calculation of the excess shelter deduction, the Department representative testified that it considered the \$664 heat and utility standard, which covers all heat and utility costs including cooling expenses and is the maximum total utility and most beneficial standard available to the client and Petitioner's client statement regarding his \$1,000 responsibility for annual property taxes. The Department representative testified that when taken monthly, the housing expense for property taxes is \$83.33. BEM 554, pp. 13-21; RFT 255, p.1. Petitioner confirmed the amount of property taxes considered by the Department but testified that he is also responsible for monthly home insurance. The Department asserted that it had no record or verification of any home insurance, and that Petitioner only reported a responsibility for property taxes.

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Although Petitioner stated that he had a monthly statement showing the amount of his home insurance, there was no evidence that this was submitted to the Department prior to the hearing. Thus, based on the information available to the Department at the time the budget was completed, the Department properly considered only the property taxes and the heat and utility standard. However, it is noted that the excess shelter deduction is calculated by subtracting 50% of the adjusted gross income from the total shelter amount. Although the Department properly calculated the total shelter amount based on the information available, because of the errors identified above, the Department failed to show that the adjusted gross income was properly determined, and thus, failed to show that the \$367 excess shelter deduction was also properly calculated.

Upon review, the Department failed to establish that it properly determined Petitioner's income and properly calculated all applicable deductions. As such, based on the evidence presented at the hearing, the Department did not establish that Petitioner was eligible for \$144 in FAP benefits effective April 1, 2025.

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 did not act in accordance with Department policy when it calculated Petitioner's FAP benefits.

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. Recalculate Petitioner's FAP budget for April 1, 2025, ongoing;
2. Issue FAP supplements to Petitioner for any benefits he was eligible to receive but did not from April 1, 2025, ongoing, in accordance with Department policy; and
3. Notify Petitioner in writing of its decision.



ZAINAB A BAYDOUN
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),

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including MCR 7.101 to MCR 7.123, available at the Michigan Courts website at 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. The request should include Petitioner'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, **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

Documents sent via email are not secure and can be faxed or mailed to avoid any potential risks. Requests MOAHR receives more than 30 days from the mailing date of this Hearing Decision may be considered untimely and dismissed.

Via Electronic Mail:

Respondent

WAYNE-GREENFIELD/JOY-DHHS
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Interested Parties

BSC4
B CABANAW
M HOLDEN
MOAHR

Via First Class Mail:

Authorized Hearing Rep

_____ MI _____

Petitioner

_____ MI _____