



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM  
Christopher Seppanen  
Executive Director

SHELLY EDGERTON  
DIRECTOR

[REDACTED]  
[REDACTED]  
[REDACTED]

Date Mailed: May 1, 2017  
MAHS Docket No.: 17-003035  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Christian Gardocki

### 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 telephone hearing was held on [REDACTED], from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], manager, and [REDACTED], specialist. [REDACTED] participated as an observer.

### ISSUE

The issue is whether MDHHS properly determined Petitioner's Food Assistance Program (FAP) eligibility.

### 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 FAP benefit recipient.
2. Petitioner was a disabled member of a 3-person FAP-benefit group.
3. Petitioner's benefit group also included a daughter who turned [REDACTED] in [REDACTED].
4. As of [REDACTED], Petitioner's group's countable unearned income was at least \$ [REDACTED].
5. As of [REDACTED], Petitioner's daughter's countable earned income was \$ [REDACTED].

6. On [REDACTED], MDHHS determined Petitioner to be eligible for \$ [REDACTED] in FAP benefits, effective [REDACTED], in part, based on employment income of \$ [REDACTED] and unearned income of \$ [REDACTED].
7. On [REDACTED], Petitioner requested a hearing to dispute FAP eligibility.

### CONCLUSIONS OF LAW

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. MDHHS (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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute FAP eligibility from [REDACTED]. MDHHS presented a Notice of Case Action (Exhibit 1, pp. 2-5) dated [REDACTED]. The notice informed Petitioner of FAP eligibility of \$ [REDACTED] beginning [REDACTED].

The presented notice included a budget summary (see Exhibit 1, p. 3). MDHHS also presented FAP-budget pages (Exhibit 1, pp. 6-10) for [REDACTED]. During the hearing, all relevant budget factors were discussed. BEM 556 outlines the factors and calculations required to determine FAP eligibility.

MDHHS presented a Verification of Employment (Exhibit 1, pp. 13-14) concerning employment for Petitioner's daughter. The verification was signed by a staff person of Petitioner's daughter's employer on [REDACTED]. It was noted Petitioner's daughter was expected to work [REDACTED] hours per week for \$ [REDACTED]/hour. One previous pay for \$ [REDACTED] on [REDACTED], was listed. Petitioner's daughter's first pay was noted to be on [REDACTED], though the amount was not provided. Petitioner's daughter was stated to be paid biweekly.

For FAP benefits, MDHHS converts bi-weekly stable income into a 30-day period by multiplying the income by 2.15 (see BEM 505 (April 2016), p. 4). Bridges counts gross [employment] wages... [other than exceptions such as earned income tax credit, census workers, flexible benefits...]. BEM 501 (July 2016), p. 7.

MDHHS projected Petitioner's daughter's income based on three pays. MDHHS factored the listed pay of \$ [REDACTED] and projected two pays based on Petitioner's daughter's projected work hours and stated wage (\$ [REDACTED]/pay period). Multiplying Petitioner's daughter's average calculated pay by 2.15 results in a monthly income of \$ [REDACTED].

Petitioner presented earning statements (Exhibit A, pp. 4-5) and a W2 (Exhibit 1, p. 6) for her daughter. Presented earning statements listed gross pays and pay dates of \$ [REDACTED] on [REDACTED], and \$ [REDACTED] on [REDACTED]. The presented wages appear to

verify a somewhat smaller income than calculated by MDHHS. The income verifications are not relevant to the current dispute.

Clients must report changes in circumstance that potentially affect eligibility or benefit amount. BAM 105 (May 2012), p. 7. Changes [in income] must be reported within 10 days of receiving the first payment reflecting the change. *Id.*

MDHHS sent notice of the FAP determination on [REDACTED]. Petitioner requested a hearing on [REDACTED]. Inclusion of a pay stub of [REDACTED], is indicative that Petitioner did not submit the verification to MDHHS until after she requested a hearing. Presumably, the same is true of the W2.

It is found Petitioner did not report any dispute concerning her daughter's wages until after she requested a hearing. Thus, it cannot be concluded that MDHHS erred by failing to factor income which was not reported by Petitioner. It is found that MDHHS properly calculated Petitioner's daughter's income.

Petitioner alternatively contended that MDHHS should not have factored any of her daughter's employment income. Petitioner referenced two different sources to support her contention.

[A student earned income] disregard applies to all sources of earned income including wages and training income. BEM 501 (July 2016), p. 1. It ends the month after the student stops meeting a requirement (Example: month after reaching age 18). *Id.* For FAP benefits,] Bridges disregards the earnings of an individual who is all of the following:

- Under age 18.
- Attending elementary, middle or high school including attending classes to obtain a GED.
- Living with someone who provides care or supervision.

*Id.*

It was not disputed that Petitioner's daughter with employed income turned 18 in [REDACTED]. The month in dispute is [REDACTED]. As of [REDACTED], Petitioner's daughter was not under [REDACTED] and thus, not eligible for a student earnings disregard. As MDHHS policy requires, the disregard stopped the month after Petitioner's daughter stopped meeting a requirement.

Petitioner also cited federal regulations to support her claim that MDHHS improperly factored her daughter's income. Administrative hearing jurisdiction is limited to whether MDHHS followed MDHHS policies, not federal regulations. Thus, there is no authority to reverse an MDHHS action based on federal regulation. It should be noted that the

regulation cited by Petitioner appears to apply to Social Security Administration (SSA) calculations, which are not applicable.

It is found MDHHS properly calculated Petitioner's daughter's income to be \$ [REDACTED]. Applying a 20% employment credit results in countable employment income of \$ [REDACTED].

It was not disputed Petitioner received \$ [REDACTED]/month in RSDI. It was not disputed Petitioner's youngest child received \$ [REDACTED]/month in Retirement, Survivors and Disability Insurance (RSDI). Petitioner's testimony would not concede that her daughter also received \$ [REDACTED]/month in RSDI, though she submitted a letter from SSA (Exhibit A, p. 10) dated [REDACTED], verifying the income. The combined RSDI is found to be \$ [REDACTED].

It was not disputed Petitioner's children received child support income. Petitioner presented a court order denying an unspecified motion (Exhibit A, p. 11). The document was irrelevant to determining Petitioner's household child support income.

[For child support income, MDHHS is to] use the average of child support payments received in the past three calendar months, unless changes are expected. BEM 505 (July 2016), p. 5. Include the current month if all payments expected for the month have been received. *Id.* Do not include amounts that are unusual and not expected to continue. *Id.*

Presumably, a determination of FAP benefits on [REDACTED], factored child support payments from [REDACTED] through [REDACTED]. Unfortunately, no evidence of [REDACTED] child support was presented. In lieu of such evidence, more current child support income verification will be considered.

MDHHS presented child support payment history for Petitioner's children (Exhibit 1, pp. 11-12) dated [REDACTED]. The document listed the following "Child Support Direct (Court-ordered)" monthly payment totals to Petitioner's children: \$ [REDACTED] and \$ [REDACTED] for [REDACTED], \$ [REDACTED] and \$ [REDACTED] for [REDACTED], and \$ [REDACTED] and \$ [REDACTED] for [REDACTED].

The average monthly child support income is found to be \$ [REDACTED] (dropping cents). Petitioner's household's combine unearned income is found to be \$ [REDACTED]. MDHHS calculated a more favorable unearned income of \$ [REDACTED] for Petitioner. For purposes of this decision, the more Petitioner-favorable unearned income will be accepted as accurate. Adding countable employment income to unearned income results in a total countable income of \$ [REDACTED].

[MDHHS] uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554 (October 2015), p. 1. For groups without a senior (over 60 years old), disabled or disabled veteran (SDV) member, MDHHS considers the following expenses: child care, excess shelter (housing and utilities) up to a capped amount and court-ordered child support and arrearages paid to non-household members (see *Id.*). For groups containing SDV members, MDHHS also considers the medical expenses above

\$█ for each SDV group member(s) and an uncapped excess shelter expense. It was not disputed Petitioner was a SDV member.

Verified countable medical expenses for SDV groups exceeding \$█ child support, and day care expenses are subtracted from a client's monthly countable income. Petitioner conceded not having child support or day care expenses. Medical expenses were factored.

MDHHS factored the following medical expenses for Petitioner: \$█ for Medicare, \$█ for prescriptions, and \$█ in home care. Petitioner presented no documentation to dispute medical expenses. After applying a \$█ deductible, the countable medical expenses are found to be \$█ (rounding to nearest dollar). Subtracting medical expenses from the running countable income total results in a running countable income total of \$█

Petitioner's FAP benefit group size justifies a standard deduction of \$█ (see RFT 255). The standard deduction is given to all FAP benefit groups, though the amount varies based on the benefit group size. The standard deduction is subtracted from the countable monthly income to calculate the group's adjusted gross income. Petitioner's FAP group's adjusted gross income is found to be \$█

MDHHS factored Petitioner's housing cost as █/month. Petitioner agreed the factored housing cost was accurate.

MDHHS credited Petitioner with a heating utility standard of \$█/month (see RFT 255). The utility standard incorporates all utilities and is the maximum credit available. Petitioner's total shelter expenses (housing + utilities) are found to be \$█


MDHHS only credits FAP benefit groups with an "excess shelter" expense. The excess shelter expense is calculated by subtracting half of Petitioner's adjusted gross income from Petitioner's total shelter obligation. Petitioner's excess shelter amount is found to be \$█

The FAP benefit group's net income is determined by taking the group's adjusted gross income and subtracting the allowable excess shelter expense. Petitioner's FAP benefit group's net income is found to be \$█ A chart listed in RFT 260 is used to determine the proper FAP benefit issuance. Based on Petitioner's group size and net income, Petitioner's proper FAP benefit issuance for █ is found to be \$█ the same amount calculated by MDHHS.

**DECISION AND ORDER**

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly determined Petitioner to be eligible for \$[REDACTED] in FAP benefits beginning [REDACTED]. The actions taken by MDHHS are **AFFIRMED**.

CG/jaf

  
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**Christian Gardocki**  
Administrative Law Judge  
for Nick Lyon, Director  
Department of Health and Human Services

**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 Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS 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. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088; Attention: MAHS Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings  
Reconsideration/Rehearing Request  
P.O. Box 30639  
Lansing, Michigan 48909-8139

**Petitioner**

[REDACTED]  
[REDACTED]  
[REDACTED]

**DHHS**

[REDACTED]  
  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]