



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

SHELLY EDGERTON  
DIRECTOR

[REDACTED]  
[REDACTED]  
[REDACTED] MI [REDACTED]

Date Mailed: June 6, 2018  
MAHS Docket No.: 18-004461  
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; 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 June 4, 2018, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Valarie Foley, hearing facilitator.

**ISSUE**

The first issue is whether MDHHS properly denied Petitioner's application for Family Independence Program (FIP) benefits.

The second 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 recipient of FAP benefits.
2. At all relevant times, Petitioner was pregnant and homeless (with no minor children).
3. Petitioner received the following gross biweekly employment income: \$ [REDACTED] on March 28, 2018; \$ [REDACTED] on April 11, 2018; and \$ [REDACTED] on April 25, 2018.

4. On March 20, 2018, MDHHS determined Petitioner was eligible for \$ [REDACTED] in FAP benefits, effective May 2018. MDHHS calculated Petitioner's income to be \$ [REDACTED]
5. On April 17, 2018, Petitioner applied for FIP benefits.
6. On April 19, 2018, MDHHS denied Petitioner's FIP application dated April 17, 2018, due to excess income. MDHHS calculated Petitioner's income to be \$ [REDACTED]

### CONCLUSIONS OF LAW

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Department of Human Services) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101-.3131. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing, in part, to dispute a denial of FIP benefits. MDHHS testimony credibly indicated that a written notice dated April 19, 2018, informed Petitioner that her FIP eligibility was denied due to excess income.

Financial need must exist to receive benefits. BEM 518 (October 2015), p. 1. Financial need exists when the certified group passes the Qualifying Deficit Test, Issuance Deficit Test and the Child Support Income Test. *Id.* The only test relevant to the present analysis is the Issuance Deficit Test.

To perform the issuance deficit test, Bridges subtracts budgetable income from the certified group's payment standard for the benefit month. *Id.* Bridges compares budgetable income for the income month using the earned income disregarded to the certified group's payment standard for the benefit month. *Id.*, p. 3. The group is ineligible for the benefit month if no deficit exists or the group has a deficit less than \$10. *Id.*

Bridges counts gross [employment] wages ... [other than exceptions such as earned income tax credit, census workers, flexible benefits ...]. BEM 501 (July 2016), p. 7. For FAP and FIP benefits, MDHHS converts bi-weekly stable income into a 30-day period by multiplying the income by 2.15. BEM 505 (October 2017), p. 4.

Petitioner received gross biweekly income of \$ [REDACTED] on March 28, 2018; \$ [REDACTED] on April 11, 2018; and \$ [REDACTED] on April 25, 2018. Multiplying Petitioner's average gross employment income by 2.15 results in a countable income of \$ [REDACTED]. MDHHS calculated a countable income of \$ [REDACTED] (see Exhibit A, p. 1). For the purposes of this

decision, the lower (and more favorable for Petitioner) income amount will be accepted as accurate. Thus, Petitioner's gross income is found to be \$ [REDACTED]

MDHHS provides for a \$200 and 20% deduction of employment income (see BEM 518). Applying the deductions results in a net income of \$ [REDACTED]

The payment standard for a one-person FIP group is \$306. Subtracting Petitioner's net income from the payment standard results in a deficit. Thus, Petitioner's circumstances do not pass the Issuance Deficit Test, and it is found that MDHHS properly denied Petitioner's FIP eligibility due to excess income. As stated during the hearing, Petitioner is encouraged to reapply for FIP benefits as she stated that she has lost her employment income since MDHHS denied her FIP application.

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

Petitioner also requested a hearing to dispute a reduction of FAP benefits effective May 2018. BEM 556 dictates the calculations used to determine FAP eligibility. MDHHS did not present documentation of the budget factors used to determine Petitioner's FAP eligibility, though they were discussed during the hearing.

MDHHS testimony indicated that Petitioner's FAP eligibility was based on an income of \$ [REDACTED] MDHHS could not explain how Petitioner's income was calculated.

In the FIP analysis, Petitioner's income was calculated to be \$ [REDACTED] It is doubtful that MDHHS calculated Petitioner's FAP eligibility based on the same pay dates cited above because all pay dates occurred after MDHHS sent notice to Petitioner of the FAP determination; nevertheless, no other evidence of income was presented, so Petitioner's pays from March and April of 2018 are the best evidence of Petitioner's income as of March 20, 2018 (the date of notice). Using the same pays, the same policy, and the same calculations from the FIP analysis results in a running countable income of \$ [REDACTED]

For FAP benefits, MDHHS credits clients with a 20% employment income deduction (the \$200 deduction applies only to FIP determinations). Application of the deduction results in a countable employment income of \$ [REDACTED] (dropping cents).

[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 \$35 for each SDV group member(s) and an uncapped excess shelter expense. It was not disputed that Petitioner's FAP group did not include an SDV member.

Verified countable medical expenses for SDV groups exceeding \$35, child support, and day care expenses are subtracted from a client's monthly countable income. Petitioner did not allege any countable day care or child support expenses.

Petitioner's FAP benefit group size justifies a standard deduction of \$160 (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 \$[REDACTED]

At the time of MDHHS' determination, Petitioner was homeless and living in her vehicle. Petitioner testimony acknowledged she had no housing or utility expenses. Thus, Petitioner's total shelter obligation is \$0.

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 \$0.

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 \$[REDACTED]. 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 is \$[REDACTED]. MDHHS determined the same eligibility for Petitioner. It is found that MDHHS properly determined Petitioner's FAP eligibility beginning May 2018.

### **DECISION AND ORDER**

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly denied Petitioner's FIP application dated April 17, 2018. It is further found that MDHHS properly determined Petitioner to be eligible for \$[REDACTED] in FAP benefits effective May 2018. The actions taken by MDHHS are **AFFIRMED**.

CG/



**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) 763-0155; 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

**DHHS**

Latasha McKinney-Newell  
MDHHS-Wayne-19-Hearings

**Petitioner**

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B Sanborn  
M Holden  
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