



5. On July 7, 2018, MDHHS determined Petitioner to be eligible for \$█/month in FAP benefits, effective August 2018. The determination was based on \$█/month in unearned income, no medical expenses, and no rent or utility expenses.
6. On July 26, 2018. MDHHS received Petitioner's hearing request disputing FAP eligibility. (Exhibit A, pp. 2-3)

### **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. 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's AHR requested a hearing to dispute Petitioner's FAP eligibility from August 2018. MDHHS presented a Notice of Case Action (Exhibit A, pp. 13-14) dated July 7, 2018, stating that Petitioner's FAP eligibility was reduced to \$█ beginning August 2018.<sup>1</sup>

BEM 556 outlines the factors and calculations required to determine FAP eligibility. MDHHS presented a FAP budget (Exhibit A, pp. 11-12) and budget summary (Exhibit A, p. 14) listing all relevant budget factors. During the hearing, all relevant budget factors were discussed with Petitioner and his AHR.

MDHHS properly factored unearned income of \$█/month. MDHHS presented a State Online Query (SOLQ) (Exhibit A, pp. 6-8) which stated that Petitioner began receiving federally-issued SSI of \$750/month. MDHHS credibly stated that Petitioner's federal SSI eligibility entitles Petitioner to receive state-issued SSI.<sup>2</sup> MDHHS further credibly testified that Petitioner was eligible to receive state-issued SSI averaging \$█/month.<sup>3</sup> Petitioner's AHR testified that Petitioner had not yet received state-issued payments; this is not surprising as payments are issued every three months, and Petitioner was only recently deemed eligible for SSI benefits. Though Petitioner had not yet received state-issued SSI, a projection of income is appropriate for newly starting income.<sup>4</sup> MDHHS properly determined Petitioner's unearned monthly income to be \$█

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<sup>1</sup> As it happened, Petitioner received \$█ in FAP benefits for August 2018 and September 2018. MDHHS testimony indicated the issuances were only the result of Petitioner requesting a hearing and that the \$█ issuance would be effective if MDHHS' actions were affirmed by this administrative hearing decision.

<sup>2</sup> See BEM 660

<sup>3</sup> See RFT 248 (January 2018) p. 1.

<sup>4</sup> See BEM 505 for policy on newly started income.

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 was a disabled individual.

Verified countable medical expenses for SDV groups exceeding \$35, child support, and day care expenses are subtracted from a client's monthly countable income. MDHHS gave Petitioner no budgets credits for child care, child support, or medical expenses. Petitioner did not allege any countable day care or child support expenses. Petitioner's AHR alleged that MDHHS should have factored Petitioner's out-of-pocket expenses for medical marijuana. MDHHS policy explicitly prohibits marijuana as a countable medical expense.<sup>5</sup> Thus, Petitioner is not entitled to credit for medical-related marijuana expenses.

Petitioner's AHR alleged that MDHHS failed to factor money Petitioner was saving to move to a new residence. Savings to move is not a countable expense and was properly not factored by MDHHS.

Petitioner's FAP benefit group size justifies a standard deduction of \$154 (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]

Petitioner did not allege to have reported any shelter expenses (housing + utilities) since Petitioner was approved for SSI. Petitioner's AHR testified that Petitioner is now responsible for payment of some amount of rent and/or utilities. Petitioner can submit proof of his responsibility to MDHHS for consideration in future benefit months. Petitioner's AHR also testified that she reported the expense to MDHHS last year; verification of Petitioner's obligation was not provided. Given the evidence, MDHHS properly factored \$0 for Petitioner's shelter expenses.

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 \$[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

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<sup>5</sup> BEM 554 (August 2017) p. 11.

proper FAP benefit issuance for August 2018 is \$ [REDACTED] the same issuance determined by MDHHS.

Petitioner should be aware that his SSI eligibility may render him eligible for FAP benefits through the Michigan Combined Application Project (MiCAP).<sup>6</sup> MiCAP is a FAP demonstration project available to persons whose only income is SSI. Generally, FAP issuances through MiCAP are higher than those processed through local MDHHS offices; this is especially true for clients who have few rent and/or utility obligations. Petitioner may pursue FAP eligibility through MiCAP by calling (877) 522-8050. This information is provided to Petitioner only as a courtesy and does not affect previous determinations of FAP benefits.

### **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 effective August 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

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<sup>6</sup> See BEM 618 (January 2016) p. 1.

**DHHS**

Renee Swiercz  
MDHHS-Oakland-IV-Hearings

**Authorized Hearing Rep**

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

**Petitioner**

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

BSC4  
M Holden  
D Sweeney  
C Gardocki  
MAHS