



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

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Date Mailed: January 11, 2019  
MAHS Docket No.: 18-012903  
Agency No.: ██████████  
Petitioner: ██████████

**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 January 10, 2019, from Detroit, Michigan. Petitioner appeared and was unrepresented. ██████████ Petitioner's daughter (hereinafter, "Daughter"), testified on behalf of Petitioner. Daughter also participated as an ██████████ translator. The Michigan Department of Health and Human Services (MDHHS) was represented by Valarie Foley, hearing facilitator.

**ISSUE**

The issue is whether MDHHS properly determined Petitioner's Food Assistance Program (FAP) eligibility effective December 2018.

**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. Petitioner was a member of a household that included Daughter. At all relevant times, Petitioner reported to MDHHS that she bought and prepared food with Daughter.
3. On an unspecified date, Petitioner submitted to MDHHS documentation of Daughter's employment. The documentation listed gross earnings for Daughter

of \$[REDACTED] on September 21, 2018, and \$[REDACTED] on October 19, 2018. (Exhibit A, pp. 17-19.)

4. As of October 2, 2018, Petitioner reported the following to MDHHS: housing costs of \$[REDACTED] month, responsibility for heat, no child support expenses, no dependent care expenses, and no medical expenses.
5. On October 2, 2018, MDHHS determined Petitioner was eligible to receive FAP benefits of \$[REDACTED] as a member of a 2-person FAP group.
6. On November 9, 2018, Petitioner submitted a Semi-Annual Contact Report to MDHHS. (Exhibit A, pp. 20-22.) Petitioner reported no change to Daughter's monthly earnings of \$[REDACTED]
7. On December 11, 2018, Petitioner requested a hearing to dispute her FAP eligibility from November 2018.

### **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 requested a hearing to dispute unspecified changes to FAP eligibility. Petitioner testimony clarified that the disputed changes were issuances of \$[REDACTED] in FAP benefits since November 2018.

MDHHS presented a Notice of Case Action dated October 2, 2018, stating that Petitioner was eligible to receive \$[REDACTED] in FAP benefits beginning November 2018. (Exhibit A, pp. 13-16.) The notice included a summary of all relevant FAP budget factors. MDHHS also provided a FAP budget for November 2018. (Exhibit A, pp. 23-25). During the hearing, all relevant budget factors were discussed. BEM 556 outlines the factors and calculations required to determine FAP eligibility.

MDHHS factored a FAP group that included Petitioner and Daughter. Petitioner's testimony implied that she and her daughter did not share all food and that perhaps MDHHS erred in including Daughter in Petitioner's FAP group. MDHHS policy requires all persons from the household who buy and prepare food together to be in the same group. BEM 212 (January 2017), pp. 5-6. Petitioner's testimony acknowledged that she never reported to MDHHS that she and Daughter separately bought and/or prepared food. Thus, MDHHS properly counted Petitioner as a member of a 2-person FAP group.

The only income in the group was Daughter's employment income. MDHHS prospected the income by factoring Daughter's gross biweekly pay dated September 21, 2018, for \$ [REDACTED]

MDHHS is to use the best available information to prospect the income. BEM 505 (October 2017), p. 8. The best available information may include work hours times the rate of pay or payments from the new source of income if accurate of future income. *Id.* For FAP benefits, MDHHS converts biweekly stable income into a 30-day period by multiplying the income by 2.15. *Id.*

Multiplying Daughter's gross employment pay from September 21, 2018, by 2.15 results in a countable income of \$ [REDACTED] - the same amount calculated by MDHHS. Petitioner's testimony acknowledged the income projected by MDHHS to be accurate. Petitioner's acknowledgement was consistent with her statement on a Semi-Annual Contact Report dated November 9, 2018, in which she reported that Daughter's income of \$ [REDACTED] had not changed by more than \$ [REDACTED]. Thus, MDHHS properly determined Petitioner's FAP group's income to be \$ [REDACTED]

MDHHS applies a 20% credit to timely reported employment income. Applying the credit results in a countable 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.

Verified countable medical expenses for SDV groups exceeding \$ [REDACTED] child support, and day care expenses are subtracted from a client's monthly countable income. Petitioner's testimony acknowledged no such relevant expenses; thus, no subtractions need be taken from Petitioner's group's countable income.

Petitioner's FAP benefit group size justifies a standard deduction of \$ [REDACTED] (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. Subtracting the standard deduction from Petitioner's running countable income results in an adjusted gross income of \$ [REDACTED]

Petitioner agreed that her and Daughter's housing costs were \$ [REDACTED]. MDHHS credited Petitioner with the standard heat/utility of \$ [REDACTED] which is the maximum utility credit available. Petitioner's shelter costs (housing + utilities) are \$ [REDACTED]

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 \$█ (rounding up to nearest dollar).

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 \$█ 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 November 2018 is \$█ the same issuance determined 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’s FAP eligibility for November 2018 to be \$█ 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**

Susan Noel  
MDHHS-Wayne-19-Hearings

**Authorized Hearing Rep.**

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

**Petitioner**

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

BSC4  
M Holden  
D Sweeney  
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MAHS