



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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

Date Mailed: January 11, 2019
MAHS Docket No.: 18-012678
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 January 3, 2019, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Kelly Curow, manager.

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. At all relevant times, Petitioner was an ongoing recipient of FAP benefits and a member of a 2-person household and FAP group.
2. At all relevant times, Petitioner's household received Retirement, Survivors and Disability Insurance (RSDI) of \$ [REDACTED] month and Family Independence Program (FIP) benefits of \$ [REDACTED] month.
3. In July 2018, Petitioner reported to MDHHS that she began working 18 hours per week for \$ [REDACTED] hour. Petitioner also reported that she would receive pays every two weeks.

4. As of September 2018, Petitioner reported the following to MDHHS: housing costs averaging \$[REDACTED] month, responsibility for heat, no child support expenses, no dependent care expenses, and no medical expenses.
5. On July 24, 2018, MDHHS determined Petitioner to be eligible for \$[REDACTED] month in FAP benefits beginning September 2018. (Exhibit A, pp. 14-15.)

6. Petitioner received the following FAP issuances:

<u>Benefit month</u>	<u>FAP issuance amount</u>
July 2018	\$[REDACTED]
August 2018	\$[REDACTED]
September 2018	\$[REDACTED]
October 2018	\$[REDACTED]
November 2018	\$[REDACTED]
December 2018	\$[REDACTED] (Exhibit A, p. 6.)

7. On November 8, 2018, Petitioner requested a hearing to dispute FAP eligibility for three months when she received "\$[REDACTED]" in FAP benefits. (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).

On November 8, 2018, Petitioner requested a hearing to dispute three months of FAP issuances for "\$[REDACTED]". Petitioner testimony expressed uncertainty which months she received the issuances but stated that the issuances occurred since July 2018. Petitioner's FAP eligibility history (Exhibit A, p. 6) listed that Petitioner received at least \$[REDACTED] in FAP benefits for all months since June 2018 except for September 2018 and October 2018. In September 2018 and October 2018, Petitioner received FAP benefits of \$[REDACTED]. Given Petitioner's FAP issuances, Petitioner's hearing request will be interpreted as a dispute over FAP eligibility from September and October 2018.

A Notice of Case Action dated July 24, 2018, stated that Petitioner's FAP eligibility would be decreased to \$[REDACTED] beginning September 2018. The stated reasons for the reduction were changes to net income and shelter. The reasons for reduction may be correct, however, the accuracy of a FAP determination cannot be verified without an analysis of the entire FAP budget. BEM 556 outlines the factors and calculations required to determine FAP eligibility. During the hearing, all relevant budget factors were discussed.

MDHHS began budgeting employment income for Petitioner after she reported in July 2018 that she started a job paying her \$■■■■ hour. Petitioner also reported to MDHHS that she would work 18 hours per week and receive her pays every two weeks.

For starting income, 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.*

In the present case, MDHHS projected Petitioner's employment income by factoring her reported rate of pay and hours. Multiplying \$■■■■ hour by 18 hours per week results in a biweekly employment income of \$■■■■. Multiplying Petitioner's biweekly employment income by 2.15 results in a monthly gross income of \$■■■■. Petitioner is further entitled to a 20% credit for reporting employment income resulting in a countable monthly income of \$■■■■.

Petitioner received monthly RSDI of \$■■■■ and FIP of \$■■■■. Adding Petitioner's unearned income and countable earned income results in a total countable income of \$■■■■.

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. For purposes of this decision, it will be assumed that Petitioner was disabled.

Verified countable medical expenses for SDV groups exceeding \$■■■■ child support, and day care expenses are subtracted from a client's monthly countable income. Petitioner's testimony acknowledged no such relevant expenses.

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. Subtracting the standard deduction from Petitioner's running countable income results in an adjusted gross income of \$■■■■.

Petitioner did not dispute her housing costs were \$■■■■. MDHHS credited Petitioner with the standard heat/utility of ■■■■ which is the maximum utility credit available. Petitioner's shelter costs (housing + utilities) are \$■■■■ (dropping cents).

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 \$3 (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 \$[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 for September 2018 is \$[REDACTED] the same issuance determined by MDHHS.

For October 2018, the only budget change was an increase in the standard deduction from \$[REDACTED] to \$[REDACTED]. The change in standard deduction causes the following budget changes: adjusted gross income of \$[REDACTED], excess shelter deduction of \$[REDACTED] and a net income of \$[REDACTED]. Despite the small decrease in net income, Petitioner is still only eligible for \$[REDACTED] in FAP benefits- the same amount issued by MDHHS. Given the evidence, MDHHS properly determined Petitioner's FAP eligibility for September 2018 and October 2018 to be \$[REDACTED].

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 September 2018 and October 2018. The actions taken by MDHHS are **AFFIRMED**.

CG/



Christian Gardocki

Administrative Law Judge

for Farah Hanley, Acting 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

Lynne Greening
MDHHS-Muskegon-Hearings

Petitioner

[REDACTED]
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