



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: January 15, 2019
MAHS Docket No.: 18-012912
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 10, 2019, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Charles Paldo, specialist.

ISSUE

The issue is whether MDHHS properly terminated Petitioner's Food Assistance Program (FAP) eligibility beginning 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 as a member of a 6-person household which included Petitioner's daughter (hereinafter, "Daughter") and Daughter's child who was also Petitioner's grandchild (hereinafter, "Grandchild"). The household also included a second daughter (hereinafter, "Daughter#2") and son (hereinafter, "Son").
2. On [REDACTED], 2018, Daughter and Grandchild applied for FAP benefits. Daughter's application reported that she and Grandchild buy and prepare food separately from Petitioner.

3. On an unspecified date, MDHHS received documentation for the following biweekly gross employment earnings of Daughter#2: \$969.92 on October 30, 2018, and \$896.76 on November 13, 2018. Exhibit A, p. 12.
4. As of November 2018, Son was a recipient of federally-issued Supplemental Security Income of \$750/month. Son was also scheduled to receive an average of \$14/month in state-issued SSI.
5. As of November 16, 2018, Petitioner reported to MDHHS the following: \$402 in housing costs, responsibility for heat expenses, no medical expenses, no dependent care expenses, and no child support expenses.
6. On November 16, 2018, MDHHS determined that Petitioner was ineligible for FAP benefits due to excess income. Exhibit A, pp. 2-3.
7. On [REDACTED], 2018, Petitioner verbally requested a hearing to dispute the termination of FAP benefits. Exhibit A, p. 16.

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 verbally requested a hearing to dispute a termination of FAP benefits.¹ Petitioner contended that her FAP eligibility ended beginning November 2018.

Petitioner provided no supporting documentation for when her FAP eligibility ended. MDHHS testimony responded that Petitioner's FAP eligibility actually ended beginning December 2018. MDHHS' testimony was consistent with a Notice of Case Action dated November 7, 2018, approving Petitioner for \$62 in FAP benefits beginning November 2018. Exhibit A, pp. 6-7. Furthermore, during the hearing, MDHHS presented Petitioner with a copy of her benefit history which listed a \$62 FAP issuance in November 2018. Given the evidence, Petitioner's FAP eligibility was terminated beginning December 2018. The analysis will continue to determine if MDHHS properly terminated Petitioner's FAP eligibility for December 2018.

MDHHS presented a Notice of Case Action dated November 16, 2018, stating that Petitioner's FAP eligibility was ending due to excess income. Exhibit A, pp. 2-3. The notice included a summary of all relevant FAP budget factors. MDHHS also provided a FAP budget for December 2018. (Exhibit A, pp. 4-5). During the hearing, all relevant

¹ BAM 600 allows clients to verbally request hearings concerning FAP eligibility.

budget factors were discussed. BEM 556 outlines the factors and calculations required to determine FAP eligibility.

In determining Petitioner's FAP eligibility, MDHHS factored a benefit group of 4 persons. MDHHS did not include Daughter and Grandchild as group members. MDHHS testimony credibly indicated that Daughter and Granddaughter were members of Petitioner's FAP group until Daughter applied for FAP benefits on [REDACTED], 2018, and claimed to buy and prepare food separately from Petitioner. MDHHS' testimony was consistent with a Notice of Case Action dated November 6, 2018, which determined Petitioner's FAP eligibility based on a group size of 4 persons. Exhibit A, pp. 6-7). MDHHS processed Daughter's application based on Daughter's reporting that she no longer bought food with Petitioner and removed Daughter and Granddaughter from Petitioner's FAP group. Petitioner contended that MDHHS erroneously removed members from Petitioner's FAP group.

FAP group composition is established by determining all of the following: who lives together, the relationship(s) of the people who live together, whether the people living together purchase and prepare food together or separately, and whether the person(s) resides in an eligible living situation. BEM 212 (January 2017), p. 1. Generally, persons who live together, and buy and prepare food together are members of the same FAP group. *Id.*, p. 6.

MDHHS properly interpreted Daughter's application as a reported change of who buys and prepares food together. As a result of the reporting that Daughter and Grandchild buy and prepare food separately, MDHHS properly removed Daughter and Grandchild from Petitioner's FAP case. Given the evidence, MDHHS properly calculated Petitioner's FAP group to be 4 persons.

For FAP benefits, MDHHS generally counts gross wages.² BEM 501 (July 2017), p. 7. For non-child support income, MDHHS uses past income to project a FAP group's income. BEM 505 (October 2017) p. 5. Biweekly income is converted to a monthly amount by multiplying the average income by 2.15. *Id.*, p. 8.

MDHHS factored Daughter#2's biweekly employment income from October 30, 2018, and November 13, 2018, in determining Petitioner's FAP eligibility. Multiplying Daughter#2's average biweekly pay by 2.15 results in a countable income of \$2,006 (dropping cents). MDHHS credits timely reported income with a 20% credit. Applying the credit to Daughter#2's income results in countable income of \$1,604 (dropping cents).

Petitioner acknowledged that her son receives \$750 in federally-issued SSI benefits. As a recipient of SSI, Petitioner's son would also receive quarterly SSI checks of \$42 (an

² Exceptions to using gross wages include the following: earned income tax credits, flexible benefits, striker earnings, student disregards, and census worker earnings. BEM 501 (July 2017), p. 7. None of these exceptions apply to the present case.

average of \$14/month). Petitioner's group's total unearned income would be \$764. Adding \$764 to the group's countable income yields a running income total of \$2,368.

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 \$35, child support, and day care expenses are subtracted from a client's monthly countable income. Petitioner's testimony acknowledged no reporting of such expenses while her case was open; thus, no subtractions need be taken from the group's income.

Petitioner's FAP benefit group size justifies a standard deduction of \$168 (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 \$2,200.

Petitioner agreed that her housing costs were \$402/month. MDHHS credited Petitioner with the standard heat/utility credit of \$543. Adding Petitioner's housing cost and utility credit results in total shelter costs of \$945.


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 \$2,200. 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 \$0, the same issuance determined by MDHHS. As Petitioner was eligible for \$0 in FAP benefits, MDHHS properly terminated Petitioner's FAP eligibility.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly terminated Petitioner's FAP eligibility effective December 2018 due to excess income. The actions taken by MDHHS are **AFFIRMED**.

CG/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

Via Email:

MDHHS-Oakland-2-Hearings
M. Holden
D. Sweeney
BSC4- Hearing Decisions
MAHS

Petitioner – Via First-Class Mail:

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