



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

[REDACTED]  
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[REDACTED]  
[REDACTED]

Date Mailed: January 18, 2019  
MAHS Docket No.: 18-013033  
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 16, 2019, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Julie McLaughlin, hearing facilitator.

**ISSUE**

The issue is whether MDHHS properly determined Petitioner's Food Assistance Program (FAP) eligibility effective August 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 which included Petitioner's child (hereinafter, "Child").
3. On May 22, 2018, MDHHS projected Petitioner's child support income by factoring the following monthly income: \$4.02 in February 2018, \$11.80 in March 2018, and no payments in April 2018. Exhibit A, p. 8.
4. As of July 16, 2018, Child received \$764/month in Supplemental Security income (SSI).

5. As of July 16, 2018, Petitioner reported the following to MDHHS: housing costs of \$153/month, responsibility for electricity and phone, no child support expenses, no dependent care expenses, and no medical expenses.
6. On July 16, 2018, MDHHS determined Petitioner was eligible to receive FAP benefits of \$170 beginning August 2018.
7. On [REDACTED], 2018, Petitioner requested a hearing to dispute FAP eligibility from August 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 the amount of her FAP eligibility. Petitioner's hearing request was silent as to which benefit month was disputed. Petitioner testified she intended to dispute FAP eligibility from August 2018.<sup>1</sup> MDHHS presented a Notice of Case Action dated July 16, 2018, stating that Petitioner was eligible to receive \$170 in FAP benefits beginning August 2018. (Exhibit A, pp. 17-18.) The notice included a summary of all relevant FAP budget factors. During the hearing, all relevant budget factors were discussed. BEM 556 outlines the factors and calculations required to determine FAP eligibility.

MDHHS factored Child's SSI of \$764/month. Petitioner acknowledged that the income was correct.

MDHHS factored \$5/month in child support. Petitioner stated that she disagreed with the income being budgeted.

In calculating child support income, MDHHS is to use the average income from the previous three months. BEM 505 (October 2017) p. 4. MDHHS is to not include amounts that are unusual and not expected to continue. *Id.*

Based on a print date of May 22, 2018, MDHHS appeared to calculate Petitioner's child support income in May 2018. MDHHS factored Petitioner's income from February 2018 through April 2018 which totaled \$15.82 resulting in an average monthly income of \$5.00 (dropping cents). Petitioner gave no indication that she reported any change in

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<sup>1</sup> Petitioner testified that she thought her FAP eligibility from August 2018 was \$160. Petitioner appeared to be mistaken as her FAP issuance history (Exhibit A, p. 16) and the Notice of Case Action dated July 16, 2018 each indicated a benefits issuance of \$170 for August 2018.

child support income. Given the evidence, MDHHS properly calculated Petitioner's child support income to be \$5/month. Adding the child support to SSI results in a running income total of \$769.

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 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 \$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. Subtracting the standard deduction from Petitioner's running countable income results in an adjusted gross income of \$615.

Petitioner agreed that her monthly housing costs were \$153. MDHHS factored that Petitioner was responsible for payment of non-heat electricity and telephone and issued standard respective credits of \$133 and \$32. MDHHS stated that Petitioner's utility credits were based on a conversation with Petitioner's landlord. Petitioner acknowledged not providing MDHHS with any different information. Given the evidence, MDHHS properly calculated Petitioner's shelter costs (housing + utilities) to be \$318.<sup>2</sup>

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 \$11 (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 \$604. 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 August 2018 is \$170, the same issuance determined by MDHHS.

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<sup>2</sup> During the hearing, Petitioner stated that she is responsible for payment of electric heating and cooling of her residence. Petitioner's statement would justify a change in her future FAP eligibility. Petitioner's statement would not affect eligibility from August 2018 because MDHHS was unaware of Petitioner's circumstances.

**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 August 2018 to be \$170. The actions taken by MDHHS are **AFFIRMED**.

CG/cg



**Christian Gardocki**  
Administrative Law Judge  
for Robert Gordon, 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-Muskegon- Hearings  
M. Holden  
D. Sweeney  
BSC3- Hearing Decisions  
MAHS

**Petitioner – Via First-Class Mail:**

