



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS  
DIRECTOR

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Date Mailed: July 23, 2019  
MOAHR Docket No.: 19-006518  
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 July 18, 2019, from ██████████ Michigan. Petitioner appeared and was unrepresented.<sup>1</sup> The Michigan Department of Health and Human Services (MDHHS) was represented by Jessica Kirchmeier, hearings facilitator, and Heather Fitzpatrick, specialist. Gloria Johnson was present as an observer.

**ISSUE**

The issue is whether MDHHS properly determined Petitioner's Food Assistance Program (FAP) eligibility beginning January 2019.

**FINDINGS OF FACT**

The administrative law judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On March 20, 2019, Petitioner applied for FAP benefits. Petitioner's application reported \$0 medical expenses and a household of one person.
2. At all relevant times, Petitioner was a senior (over 60 years old).

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<sup>1</sup> The Michigan Office of Administrative Hearings and Rules honored Petitioner's request to have her niece, ██████████, recognized as an authorized hearing representative (AHR). Petitioner agreed to proceed with a hearing despite the absence of her representative. Despite the AHR's absence, during the hearing, Petitioner stated that she wished to keep ██████████ as her AHR.

3. As of March 20, 2019, Petitioner received Retirement, Survivors and Disability Insurance (RSDI) of \$896/month.
4. As of March 2019, Petitioner was responsible for a subsidized monthly rent of \$204. Petitioner was also responsible for electricity and telephone utilities.
5. On March 28, 2019, MDHHS determined Petitioner was eligible for \$15/month in FAP benefits beginning April 2019 based on \$896 in unearned income, \$204/month in rent, obligations for electricity and telephone, and \$0 medical expenses.
6. On June 5, 2019, Petitioner requested a hearing to dispute FAP eligibility. Exhibit A, p. 5.

### **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 FAP eligibility. A Notice of Case Action dated March 28, 2019, informed Petitioner of an approval of \$15/month in FAP benefits beginning April 2019. Petitioner thought she should receive more than \$15 in FAP benefits.

Petitioner testified that she received \$92/month in FAP benefits in November 2018. Petitioner's testimony implied that she should receive more in FAP benefits now because of her past eligibility. Current FAP eligibility is calculated independently of past FAP eligibility. Thus, Petitioner's past FAP issuances will not be factored in determining whether MDHHS properly calculated Petitioner's ongoing eligibility.

The Notice of Case Action dated March 28, 2019, and budget pages listed all numbers used to calculate Petitioner's FAP eligibility. During the hearing, all budget factors were discussed with Petitioner. BEM 556 outlines the factors and calculations required to determine FAP eligibility.

Determining FAP eligibility begins with determining a client's countable income. MDHHS counted \$896 as unearned income for Petitioner. Petitioner's testimony agreed that she received \$896/month in RSDI.

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: childcare, 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. Countable expenses are subtracted from a client's monthly countable income.

At the time of the disputed benefit month, Petitioner was a senior and/or disabled. Petitioner's testimony acknowledged no child support or dependent care expenses. Petitioner's testimony claimed she may have more than \$35/month in medical expenses. Petitioner brought no verification of her medical expenses to the hearing. Petitioner also reported on her application dated March 20, 2019, having no medical expenses. Given the evidence, Petitioner did not report any medical expenses to MDHHS. Thus, no subtractions for medical expenses are justified.

Petitioner testified that she is responsible for payment of a life insurance policy. Petitioner's testimony implied that life insurance premiums should be factored in a person's FAP eligibility. MDHHS does not factor life insurance premiums in determining FAP eligibility.

Petitioner's FAP benefit group size justifies a standard deduction of \$158 (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 \$738.

MDHHS budgeted Petitioner's housing costs to be \$204. Petitioner testified that MDHHS accurately budgeted her housing costs.

MDHHS credited Petitioner with an obligation for telephone and electricity. Petitioner testified that these were her only utility obligations. Petitioner testified that she might also be responsible for payment of air conditioning. If Petitioner is obligated to pay for air conditioning, she may be entitled to receive a higher utility credit. Petitioner did not report such an obligation on her application; thus, MDHHS would have no reason to consider Petitioner's possible obligation to pay for cooling.<sup>2</sup> Given the evidence, Petitioner is entitled to the standard credits for electricity (\$135) and telephone (\$31) obligations. RFT 255 (October 2018), p. 1. Adding Petitioner's housing and utility credits results in a total shelter obligation of \$370.

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<sup>2</sup> During the hearing Petitioner was advised that she can later report to MDHHS an obligation to pay for cooling if she indeed has one. Upon such a reporting, MDHHS can consider factoring a cooling obligation into Petitioner's future FAP eligibility.

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 \$1.

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 \$737. 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 April 2019 is \$15; the same issuance was calculated by MDHHS. Thus, MDHHS properly determined 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 determined Petitioner’s FAP eligibility for April 2019 to be \$15. The actions taken by MDHHS are **AFFIRMED**.

CG/jaf



**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 Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR 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. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Office of Administrative Hearings and Rules  
Reconsideration/Rehearing Request  
P.O. Box 30639  
Lansing, Michigan 48909-8139

Via First Class Mail  
**Petitioner**

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

**Authorized Hearing Rep.**

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

Via Email  
**DHHS**

Jessica Kirchmeier  
MDHHS-Eaton-Hearings

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