



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED] MI [REDACTED]

Date Mailed: September 23, 2019
MOAHR Docket No.: 19-009187
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 September 19, 2019, from Detroit, Michigan. Petitioner appeared and was unrepresented. [REDACTED], Petitioner's spouse (hereinafter, "Spouse") testified on behalf of Petitioner. 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 beginning August 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. Petitioner was an ongoing recipient of FAP benefits as a member of a 4-person household which included Spouse and two minor children.
2. As part of a Redetermination for July 2019, MDHHS received multiple biweekly employment pay documents for Spouse. The most recent documents submitted verified gross pays of \$1,076.49 on May 17, 2019, and \$858.87 on May 31, 2019.
3. As of July 2019, Petitioner reported to MDHHS the following: \$619.71 in housing costs, responsibility for heat expenses, no current medical expenses, no dependent care expenses, and no child support expenses.

4. On August 13, 2019, MDHHS determined that Petitioner was eligible for \$317 in FAP benefits beginning August 2019.
5. On August 21, 2019, Petitioner requested a hearing to dispute the determination of FAP benefits for August 2019. 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).

Petitioner's hearing request expressed a dispute over a determination of FAP benefits. Petitioner testified that she specifically disputed a determination of her eligibility beginning August 2019. MDHHS presented a Notice of Case Action dated August 13, 2019, stating that Petitioner was eligible to receive \$317 in FAP benefits beginning August 2019. Exhibit A, pp. 12-13.

Before August 2019, Petitioner received \$642/month in FAP benefits. Exhibit A, pp. 14-15. MDHHS' Hearing Summary implied that Petitioner's FAP eligibility before August 2019 factored medical expenses from 2012 which should not have been budgeted. Exhibit A, pp. 1-2 and 9-10. MDHHS' explanation for why Petitioner's FAP eligibility decreased beginning August 2019 was insightful but a full benefit calculation is required to determine if Petitioner's FAP eligibility for August 2019 was proper.

The Notice of Case Action dated August 13, 2019, included a summary of all relevant FAP budget factors. MDHHS also provided a FAP budget for October 2019.¹ Exhibit A, pp. 7-8. During the hearing, all relevant budget factors were discussed with Petitioner. BEM 556 outlines the factors and calculations required to determine FAP eligibility.

In determining Petitioner's FAP eligibility, MDHHS factored a benefit group of four persons. Petitioner agreed that the group size was proper.

MDHHS calculated a gross employment income of \$2,080 for Spouse. Spouse disputed the amount for multiple reasons.

¹ The budget calculated Petitioner's eligibility to be \$317. Thus, it is presumed to be an identical budget to August 2019.

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 is to use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month. *Id.*, p. 6.

As part of a redetermination for July 2019, Spouse submitted several weeks of biweekly pay stubs to MDHHS. Petitioner agreed that no other pays were submitted to MDHHS after the July 2019 redetermination submission and before the hearing request date.³ MDHHS properly relied only on the most recent 30 days of pay stubs submitted (pays dated May 17, 2019, and May 31, 2019). MDHHS properly relied on the gross income of \$1,076.49 and \$858.87 from those pays. MDHHS also properly applied a 2.15 multiplier to the average pay resulting in a countable income of \$2,080. MDHHS applied a 20% credit for timely reported income resulting in a countable household income of \$1,664.

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.

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 acknowledged having no child support or dependent care expenses. Petitioner also acknowledged she had not reported current medical expenses. Petitioner's testimony implied that MDHHS could factor her medical expenses from 2012 because they remain unpaid.

In budgeting medical expenses, MDHHS is to estimate an SDV person's medical expenses for the benefit period. BEM 554 (April 2019), p. 11. For expenses to be allowed, they must not be overdue. *Id.* A medical bill is not overdue if currently incurred, currently billed, or payment arrangement was made before the bill became overdue. *Id.*

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.

³ Petitioner and Spouse each testified that additional stubs were submitted to MDHHS after a hearing was requested. Petitioner's submission after the hearing request date is not relevant to the present case because MDHHS could not have considered the information as of Petitioner's hearing request date. Petitioner's submission may be relevant to future FAP eligibility and should be considered by MDHHS as a reported change in income.

Petitioner's medical bills from 2012 are overdue, and therefore, not countable in the benefit period beginning August 2019. Also, there was no basis for MDHS to believe that Petitioner would incur medical expenses as she currently receives Medicaid coverage (Petitioner testified that her 2012 expenses were incurred at a time when she did not receive Medicaid coverage).⁴ Given the evidence, MDHHS properly factored \$0 in medical expenses and no subtractions need be taken from the group's income.

Petitioner testified that MDHHS should factor her costs for a vehicle loan and vehicle insurance. MDHHS policy does not allow for such expenses in determining FAP eligibility.

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 countable income results in an adjusted gross income of \$1,496.

Petitioner agreed that her housing costs were \$619.71/month. MDHHS credited Petitioner with the standard heat/utility credit of \$543. RFT 255 (October 2018), p. 1. The standard heat/utility credit is the maximum credit available. Adding Petitioner's housing cost and utility credit results in total shelter costs of \$1,163 (rounding to nearest dollar).

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 \$415.

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 \$1,081. 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 \$317, which was the same issuance determined by MDHHS.

⁴ Additionally, Petitioner may not be eligible for any medical expense credit due to not being an SDV member.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly determined Petitioner to be eligible for \$317/month in FAP benefits beginning August 2019. 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

DHHS
(via electronic mail)

Susan Noel
MDHHS-Wayne-19-Hearings
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M Holden
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Petitioner
(via first class mail)

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