



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

██████████
██████████
██████████ MI ██████████

Date Mailed: October 8, 2019
MOAHR Docket No.: 19-009693
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 October 3, 2019, from ██████████ Michigan. Petitioner appeared and was unrepresented. Petitioner's spouse, ██████████ (hereinafter, "Spouse"), testified on behalf of Petitioner. The Michigan Department of Health and Human Services (MDHHS) was represented by April Williams, supervisor, and Sharay Callaway, specialist.

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. As of August 2019, Petitioner was an ongoing recipient of FAP benefits as a member of a two-person household which included Spouse.
2. As of August 2019, Petitioner and spouse received a combined \$1,178 in unearned income.
3. As of August 2019, Petitioner reported to MDHHS the following: \$202.25 in housing costs, responsibility for heat expenses, no current medical expenses, no dependent care expenses, and no child support expenses.

4. On August 23, 2019, MDHHS determined that Petitioner was eligible for \$[REDACTED] in FAP benefits beginning October 2019.
5. On September 5, 2019, Petitioner verbally requested a hearing to dispute the determination of FAP benefits for October 2019. Exhibit A, pp. 4-5.
6. On an unspecified date, MDHHS began recoupment of \$11/month for FAP benefits allegedly overissued to Petitioner.

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 reduction in FAP benefits beginning October 2019. MDHHS presented a Notice of Case Action dated August 23, 2019, stating that Petitioner was eligible to receive \$[REDACTED] in FAP benefits beginning October 2019. Exhibit A, pp. 6-7.

Before October 2019, Petitioner received \$[REDACTED] month in FAP benefits. Exhibit A, pp. 8-10. MDHHS testimony explained that Petitioner's FAP eligibility decreased to \$[REDACTED] after MDHHS learned that Petitioner and Spouse paid off their home in 2016 and mortgage expenses were removed from Petitioner's FAP budget. Exhibit A, pp. 8-10. MDHHS' explanation for why Petitioner's FAP eligibility decreased was insightful but a full benefit calculation is required to determine if Petitioner's FAP eligibility for October 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. Exhibit A, pp. 11-13. 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 two persons. Petitioner agreed that the group size was proper.

MDHHS factored that Petitioner's and Spouse's combined gross unearned income was \$1,178. Spouse agreed that the income amount was correct.

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. Countable expenses are to be subtracted from the group's income

MDHHS factored no child care, child support, or medical expenses for Petitioner's group. Petitioner acknowledged having no child support or dependent care expenses. Petitioner and Spouse each testified that they pay a combined \$300 for pain management costs. Spouse testified that he was unsure if he reported \$300 expenses to MDHHS. During the hearing, MDHHS checked Petitioner's benefit application dated August 14, 2019, for the purposes of checking what medical expenses that Petitioner reported; MDHHS testimony credibly indicated that Petitioner reported \$0 in medical expenses on the application. The evidence established that Petitioner and Spouse did not report medical expenses to MDHHS.

Clients must cooperate with the local office in determining initial and ongoing eligibility. BAM 105 (January 2019), p. 9. Clients must also report changes in circumstance that potentially affect eligibility or benefit amount. *Id.*, p. 12.

Without reporting medical expenses, MDHHS cannot be faulted for not budgeting them. Petitioner was advised to report and verify medical expenses for consideration in future FAP determinations. For October 2019, MDHHS properly factored Petitioner's medical expenses to be zero; and Petitioner's running income total remains \$1,178.

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 countable income results in an adjusted gross income of \$1,020.

MDHHS factored Petitioner's monthly housing costs to be \$205.25. Spouse's testimony agreed that the amount was correct. MDHHS credited Petitioner with the standard heat/utility credit of \$543 for a responsibility for heat and/or cooling. 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 \$748 (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 \$238.

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 \$782. 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 gross FAP benefit issuance is \$[REDACTED] which was the same issuance determined by MDHHS.¹

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 \$[REDACTED]/month in FAP benefits beginning October 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

¹ The FAP budgets additionally noted a \$11 monthly recoupment. MDHHS testimony explained the recoupment was the result of wrongly including Petitioner's housing costs in the budget since 2016. Whether MDHHS is properly recouping FAP benefits was not the subject of the hearing request and will not be evaluated.

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)

Denise McCoggle
MDHHS-Wayne-15-Hearings
BSC4
M Holden
D Sweeney

Petitioner (via first class mail)

██████████
██████████
██████████ MI ██████████