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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: November 27, 2019  
MOAHR Docket No.: 19-011151  
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 ██████████. After due notice, a telephone hearing was held on November 21, 2019, from Detroit, 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 Richkelle Curney, lead specialist. ██████████ participated as an Arabic translator.

### **ISSUE**

The issue is whether MDHHS properly determined Petitioner's Family Independence Program (FIP) 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 September 2019, Petitioner was an ongoing recipient of FIP and Food Assistance Program (FAP) benefits as a member of an 8-person benefit group.
2. On an unspecified date, MDHHS received documentation of Spouse's income with ██████████ (Employer1) and ██████████ (Employer2). Spouse's documentation listed the following gross income issuances from Employer1: \$██████████ on July 7, 2019; \$██████████ on July 14, 2019; \$██████████ on July 21, 2019; and \$██████████ on July 28, 2019. Spouse's documentation listed the following gross income issuances from

Employer2: \$█████ on July 1, 2019; \$█████ on July 8, 2019; ██████ on July 15, 2019; \$█████ on July 22, 2019; and \$█████ on July 29, 2019.

3. For September 2019, MDHHS issued a total of \$█████ in FIP benefits to Petitioner.
4. On September 23, 2019, MDHHS terminated Petitioner's FAP eligibility beginning November 2019. MDHHS additionally determined Petitioner's FAP eligibility beginning November 2019 based on a group size of seven (7) persons.
5. On September 24, 2019, Petitioner requested a hearing to dispute her FIP and FAP benefit amounts from September 2019.
6. On an unspecified date, MDHHS determined that Petitioner was eligible to receive \$█████ in FIP benefits for September 2019 and \$█████ in FIP benefits for October 2019.
7. For October 2019, MDHHS issued \$█████ in FIP benefits to Petitioner.
8. On October 2, 2019, MDHHS determined Petitioner to be eligible for \$█████ in FIP benefits beginning November 2019. MDHHS additionally determined Petitioner to be eligible for FAP benefits based on an 8-person group.
9. On an unspecified date, MDHHS determined Petitioner to be eligible for \$█████ in FIP benefits beginning November 2019.
10. On November 21, 2019, during an administrative hearing, Petitioner verbally withdrew her dispute concerning FAP eligibility.

### **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. Petitioner requested a hearing one day after MDHHS sent notice disqualifying a FAP group member for unspecified employment-related activities. Exhibit A, pp. 6-12. During the hearing, MDHHS acknowledged that the disqualification was improper. MDHHS also testified that Petitioner's FAP eligibility was corrected. Petitioner agreed and withdrew her hearing

request concerning FAP benefits. Based on Petitioner's withdrawal, her hearing request concerning FAP benefits will be dismissed.

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Department of Human Services) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101-.3131. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner also requested a hearing to dispute FIP eligibility. A Notice of Case Action dated September 23, 2019, stated that Petitioner's FIP eligibility would end November 2019 due to a group member failing to comply with employment-related activities. Exhibit A, pp. 6-12. MDHHS admitted the threatened closure was improper and reinstated Petitioner's FIP eligibility in the amount of \$[REDACTED] beginning November 2019. Exhibit A, pp. 13-18. The stated FIP amounts from the notices did not match the amounts MDHHS and Petitioner claimed during the hearing. To resolve the discrepancies, documentation of Petitioner's FIP issuances were obtained from MDHHS' database. The documentation established the following issuances to Petitioner:

	<u>Monthly FIP</u>	<u>Supplement</u>	<u>Total FIP issued</u>
September 2019	\$[REDACTED]	\$[REDACTED]	\$[REDACTED]
October 2019	\$[REDACTED]	\$0	\$[REDACTED]
November 2019	\$[REDACTED]	\$0	\$[REDACTED]

Petitioner disputed all FIP amounts since September 2019. The evaluation will proceed to determine whether MDHHS under-issued FIP benefits to Petitioner.

Financial need must exist to receive FIP benefits. Financial need exists when the certified group passes the Qualifying Deficit Test, Issuance Deficit Test, and the Child Support Income Test. BEM 518 (October 2015), p. 1. To perform the issuance deficit test, Bridges (the MDHHS database) subtracts countable income from the certified group's payment standard for the benefit month. Bridges compares countable income for the income month using the earned income disregard to the certified group's payment standard for the benefit month. The group is ineligible for the benefit month if no deficit exists or the group has a deficit less than \$10. (*Id.* pp. 1-3)

Spouse received income from Employer1 and Employer2. The Internal Revenue Service recognizes Spouse's type of employment as self-employment.<sup>1</sup> For FIP, MDHHS counts self-employment income after subtracting the higher of 25 percent of

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<sup>1</sup> <https://www.irs.gov/businesses/small-businesses-self-employed/sharing-economy-tax-center>. See also <https://www.uber.com/drive/resources/tax-tips-for-drivers/>

total proceeds, or actual expenses. BEM 502 (July 2017), p. 3. There was no evidence that Spouse claimed more than 25% of gross income as self-employment expenses.

As of the disputed benefit month, the most recently submitted employment income for Spouse was from July 2019. Spouse's total income from Employer2 in July 2019 totaled \$[REDACTED]. Spouse's total income from Employer1 totaled \$[REDACTED]. Thus, Spouse's total self-employment income for July 2019 was \$[REDACTED]. Applying a 25% deduction for expenses results in a countable gross self-employment income of \$[REDACTED] (dropping cents). Petitioner is entitled to a \$[REDACTED]+50% credit of income. Applying the credit results in a net income of \$[REDACTED] (rounding up to nearest dollar).

As of September 2019, Petitioner's group size was eight (8). The payment standard for an 8-person group is \$985. Subtracting Petitioner's group's net income of \$[REDACTED] from the payment standard results in a FIP grant of \$[REDACTED]. Thus, Petitioner was entitled to receive \$[REDACTED] in monthly FIP benefits beginning September 2019.

Petitioner received \$[REDACTED] in FIP benefits in September and beginning November 2019. MDHHS could not explain why Petitioner received only \$[REDACTED] in FIP benefits for October 2019. Given the evidence, Petitioner is entitled to a supplement of \$[REDACTED] in FIP benefits for October 2019 for the difference between her correct issuance and benefits issued. Petitioner is not entitled to a supplement for any other months as MDHHS properly calculated her benefit issuance.

### DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that Petitioner withdrew her dispute concerning FAP eligibility. Based on Petitioner's hearing request withdrawal, Petitioner's hearing request concerning FAP benefits is **DISMISSED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly determined Petitioner's FIP eligibility for October 2019. It is ordered that MDHHS issue a supplement of \$[REDACTED] to Petitioner for October 2019. The actions taken by MDHHS are **REVERSED**.

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)

Tara Roland [REDACTED]  
MDHHS-[REDACTED]-Hearings  
B Sanborn  
M Schoch  
BSC4  
M Holden  
D Sweeney

**Petitioner** (via first class mail)

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