



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

[REDACTED]  
[REDACTED]  
[REDACTED]

Date Mailed: January 21, 2020  
MOAHR Docket No.: 19-012867  
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, 2020, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Lianne Scupholm, hearing facilitator, and Nicole Marsh, specialist.

### **ISSUE**

The issue is whether MDHHS properly determined Petitioner's FAP eligibility beginning October 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. At all relevant times, Petitioner was a member of a household that included her three minor children.
2. At all relevant times, Petitioner was uncooperative with the Office of Child Support in obtaining child support for one or more of her children.
3. On an unspecified date, MDHHS approved Petitioner for \$262 in FAP benefits for October 2019.

4. On an unspecified date. MDHHS approved Petitioner for \$270 in FAP benefits for January 2020.
5. As of January 2020, Petitioner received \$360 per month in employment income.
6. As of January 2020, Petitioner's children received at least \$151 per month in combined child support income. Additionally, one of Petitioner's children received a total of \$785 in Supplemental Security Income (SSI) benefits.
7. As of January 2020, Petitioner reported the following monthly expenses to MDHHS: \$0 for child support, \$0 for dependent care, and \$0 for medical.
8. As of January 2020, Petitioner was responsible for monthly housing costs of \$282. Petitioner was also responsible for heating and/or cooling costs.
9. On [REDACTED], 2019, Petitioner requested a hearing to dispute 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's hearing request checked a dispute about FAP benefit amount; further elaboration was not stated. Exhibit A, pp. 13-14. During the hearing, Petitioner stated that MDHHS originally approved her for approximately \$180 in FAP benefits for October 2019. Petitioner also stated that MDHHS issued supplements since October 2019, but that she was still uncertain if she received the correct FAP issuance. Thus, Petitioner appeared to request a hearing to dispute FAP eligibility from October 2019.

Documentation of Petitioner's FAP issuances verified that Petitioner received \$262 in FAP benefits for October 2019. Exhibit B, p. 1. During the hearing, MDHHS only had ready access to information concerning Petitioner's FAP eligibility of \$270 for January 2020. *Id.* Due to the proximity of FAP issuance amounts between October 2019 and January 2020, Petitioner agreed that if her FAP eligibility for January 2020 was correct, her FAP eligibility from October 2019 did not need to be addressed. Thus, the following analysis concerns Petitioner's eligibility for January 2020.

MDHHS testified that, due to technological issues, Petitioner's FAP eligibility for January 2020 was calculated manually (i.e. the specialist handwrote the budget). The specialist's budget was presented on a Benefit Notice dated December 9, 2019. Exhibit

A, pp. 16-17. During the hearing, all budget factors were discussed with Petitioner. BEM 556 outlines the factors and calculations required to determine FAP eligibility.

Petitioner was a member of a household that included three minor children. MDHHS factored a group size of 3 persons to determine Petitioner's FAP eligibility. MDHHS testified that Petitioner was a disqualified member due to her lack of cooperation in obtaining child support for one or more of her children. Failure to cooperate without good cause results in disqualification of the individual who failed to cooperate. BEM 255 (April 2019) p. 14. Petitioner did not dispute that she was properly disqualified. The evidence established a FAP benefit group size of 3.

MDHHS factored employment income of \$360 for Petitioner. Petitioner acknowledged the amount accurately reflected her wages. MDHHS issues a 20% credit for timely reported employment income. Applying the credit results in a countable employment income of \$288.

MDHHS factored \$785 in SSI for one of Petitioner's children and \$151 in total child support income. Petitioner acknowledged that the unearned income factored by MDHHS was not an overstatement of her income. Adding Petitioner's countable earned income (\$288) to the group's unearned income (\$936) results in a total countable income of \$1,224.

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.

MDHHS factored that Petitioner had no medical, child support, or dependent care expenses. Petitioner's testimony agreed that she had no such expenses.

Petitioner's FAP benefit group size justifies a standard deduction of \$161 (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 and countable expenses from Petitioner's countable income results in an adjusted gross income of \$1,063.

MDHHS budgeted Petitioner's housing costs to be \$282. Petitioner testimony agreed that \$282 reflected her monthly housing expenses. MDHHS credited Petitioner with a responsibility for heating costs and issued the standard heating/utility (h/u) credit of \$518. RFT 255 (October 2019) p. 1. Generally, the h/u credit covers all utility expenses

and is the maximum credit available.<sup>1</sup> Adding Petitioner's housing and utility credits results in a total shelter obligation of \$800.

MDHHS does not give full credits for shelter expenses. MDHHS credits FAP benefit groups with an "excess shelter" expense which is calculated by subtracting half of Petitioner's adjusted gross income from Petitioner's total shelter obligation. Petitioner's excess shelter amount is \$269 (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. The result is a net income of \$794. 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 January 2020 is \$270, which is the same issuance calculated by MDHHS. Thus, MDHHS properly determined Petitioner's FAP eligibility for January 2020. As Petitioner agreed that MDHHS correctly calculated her FAP eligibility for October 2019 to be \$262 if her FAP eligibility for January 2020 was correctly calculated, it is found that MDHHS correctly calculated Petitioner's FAP eligibility for October 2019.

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<sup>1</sup> MDHHS allows additional credits for "actual utility expenses". Such expenses are only allowed for utility installation charges, water well installation and maintenance, and septic installation and maintenance. BEM 554 (October 2019) p. 15. There was no evidence of applicable exceptions.

**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 October 2019 to be \$262. The actions taken by MDHHS are **AFFIRMED**.

CG/cg



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**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 Email:**

MDHHS-Calhoun-21-Hearings  
M. Holden  
D. Sweeney  
BSC3- Hearing Decisions  
MOAHR

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

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