



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR



Date Mailed: May 28, 2020  
MOAHR Docket No.: 20-001876  
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 May 27, 2020, from Trenton, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Melissa Stanley, hearing facilitator.

### **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 January 2020, Petitioner was an ongoing FAP recipient and the only member of his household.
2. As of January 2020, Petitioner was a senior (over 60 years old) and/or disabled.
3. As of January 2020, Petitioner received gross monthly Retirement, Survivors and Disability Insurance (RSDI) of \$1,194.
4. As of January 2020, Petitioner had the following monthly expenses: \$0 for child support, \$0 for dependent care, and no more than \$306 in medical.
5. As of January 2020, Petitioner was responsible for housing expenses averaging \$176.86 per month. Petitioner was also responsible for heat and/or cooling costs.

6. On February 14, 2020, MDHHS determined Petitioner was eligible for \$59 per month in FAP benefits beginning February 2020.
7. On February 26, 2020, 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. MDHHS 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 Exhibit A, pp. 2-3. Petitioner did not specify which month of FAP eligibility was disputed. In lieu of such specificity, the most recent adverse action to Petitioner's FAP eligibility from before his hearing request will be inferred as disputed. As of Petitioner's hearing request date, the most recent adverse action to Petitioner's FAP eligibility was a reduction beginning February 2020. A Notice of Case Action dated February 14, 2020, stated that Petitioner was eligible for \$59 in FAP benefits beginning February 2020. Exhibit A, pp. 26-27. The Notice of Case Action listed all relevant budget factors, as did budget pages from February 2020. Exhibit A, pp. 15-16. The analysis will proceed to determine if MDHHS correctly determined Petitioner's FAP eligibility for February 2020.

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

Petitioner's hearing request referenced that his home was built in the 1950s and that his vehicle is 21 years old. The implication of Petitioner's references is that MDHHS should factor his vehicle and housing maintenance costs in determining FAP eligibility. MDHHS policy does not allow for housing or vehicle maintenance costs in determining FAP eligibility.

In determining Petitioner's FAP eligibility, MDHHS factored a group size of one. As Petitioner lives alone, a group size of one is proper (see BEM 212).

MDHHS factored an unearned income of \$1,194 for Petitioner. Documentation from Social Security Administration obtained from a data exchange listed RSDI to Petitioner for the same amount. Exhibit A, pp. 19-21. During the hearing, Petitioner acknowledged that his RSDI was correctly budgeted.

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.

Petitioner was senior and/or disabled. Petitioner's testimony acknowledged having no child support or dependent care expenses. For medical expenses, MDHHS factored monthly medical expenses of \$306. Petitioner's testimony acknowledged that his actual medical expenses were much less since a switch in health insurances. As the budgeting of medical expenses is favorable for Petitioner, it will be accepted that Petitioner's monthly medical expenses are \$306.<sup>1</sup> Applying a mandatory copayment of \$35 results in \$271 in countable medical 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 and countable expenses are subtracted from the countable monthly income to calculate the group's adjusted gross income. Subtracting the standard deduction and countable expenses from Petitioner's income results in an adjusted gross income of \$762.

MDHHS budgeted \$176.86 for Petitioner's housing costs. Petitioner acknowledged that his housing expenses were budgeted correctly.

MDHHS credited Petitioner with a responsibility for heating costs and issued a 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>2</sup> Adding Petitioner's housing and utility credits results in a total shelter obligation of \$695.

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 \$314.

The FAP benefit group's net income is determined by subtracting the excess shelter expense from the group's adjusted gross income; doing so results in \$448 in net income for Petitioner's group. 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 February 2020 is \$59; the same issuance amount was calculated by MDHHS. Thus, MDHHS properly determined Petitioner's FAP eligibility.

## **DECISION AND ORDER**

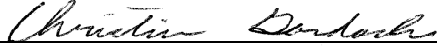
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<sup>1</sup> Petitioner should be aware that if MDHHS corrects the medical expenses, the result may be a further reduction of FAP benefits.

<sup>2</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.

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 February 2020 to be \$59. 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-Saginaw-Hearings  
M. Holden  
D. Sweeney  
BSC2- Hearing Decisions  
MOAHR

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

