



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: August 19, 2020  
MOAHR Docket No.: 20-004595  
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 3-way telephone hearing was held on August 10, 2020, from Trenton, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Karl Norgan, specialist.

### **ISSUE**

The issue is whether MDHHS properly terminated 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 May 2020, Petitioner was an ongoing recipient of FAP benefits as a member of a 2-person group with a non-disabled child.
2. As of May 2020, Petitioner's group received \$ [REDACTED] in ongoing monthly income.
3. As of May 2020, Petitioner had no dependent care or child support expenses. Petitioner had reported and verified Medicare premium expenses of approximately \$145, and no other medical expenses.
4. As of May 2020, Petitioner had \$1,209 in monthly housing expenses and an obligation for heat expenses.
5. On June 3, 2020, MDHHS determined that Petitioner was ineligible for FAP benefits beginning July 2020 due to excess net income.

6. On [REDACTED], 2020, Petitioner requested a hearing to dispute the termination of FAP benefits.

### **CONCLUSIONS OF LAW**

The Food Assistance Program [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 a termination of FAP benefits. Exhibit A, pp. 4-6. A Notice of Case Action dated June 3, 2020, stated that Petitioner's FAP eligibility would end due to excess net income. Exhibit A, pp. 10-14.

BEM 556 outlines the factors and calculations required to determine net income for FAP benefits. FAP net income factors group size, countable monthly income, and relevant monthly expenses. MDHHS provided a net income budget which listed most eligibility factors and calculations. Exhibit A, pp. 15-16. Also considered was a budget summary from the closure notice which listed relevant factors. Exhibit A, p. 11. During the hearing, all relevant budget factors were discussed with Petitioner.

In determining Petitioner's net income, MDHHS calculated a group size of two.<sup>1</sup> Petitioner acknowledged that MDHHS accurately calculated the group size.

MDHHS factored a monthly unearned income for Petitioner's group of \$3,067. Petitioner did not dispute the amount factored by MDHHS.

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.

During the hearing, medical expenses were a source of contention. Before July 2020, MDHHS credited Petitioner with \$1,843 in medical expenses. Exhibit A, p. 8. Petitioner's specialist testified that a search of Petitioner's case revealed that most of the \$1,843 in medical expenses were budgeted based on a bill from 2012. Petitioner's specialist further testified that Petitioner's case file only verified ongoing expenses from a \$145

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<sup>1</sup> See BEM 212 to determine group size for FAP benefits.

Medicare premium. After applying a \$35 copayment, Petitioner was only entitled to \$110 in medical expenses.

MDHHS is to consider only the medical expenses of SDV persons in the eligible group or SDV persons disqualified for certain reasons. BEM 554 (January 2020) p. 8. MDHHS is to estimate an SDV person's medical expenses for the benefit period based on the following: verified allowable medical expenses, available information about the SDV person's medical condition and insurance, and changes reasonably expected to occur during the benefit period. *Id.*, pp. 8-9.

Only medical bills that are not overdue may be budgeted. *Id.*, p. 11. Medical bills that are not overdue would be those that are: incurred for the current benefit month, billed for the current month, and/or the client made a payment arrangement before the bill became overdue. *Id.*

As medical expenses are estimated from a person's current benefit period. MDHHS properly removed Petitioner's 2012 medical expenses from the budget. The reduction in medical expenses may have been premature if Petitioner was not given an opportunity to verify ongoing medical expenses. As it happened, MDHHS made such an attempt by sending Petitioner a VCL on June 24, 2020, with a due date of July 6, 2020. In response, Petitioner sent MDHHS two medical bills: a medical bill for his child and a medical bill for Petitioner without a date of service. Petitioner is not entitled to a medical expense credit for his child's bill because his child is not an SDV member. Petitioner's medical bill without a date of service cannot be budgeted because there is not verification that the bill is not overdue.

Petitioner contended that he should be excused from verifying medical bills because his physician offices were closed during portions of the COVID-19 pandemic. Petitioner also contended that MDHHS should have given him more time to verify medical expenses. For FAP, clients have 10 calendar days from the date of VCL to return verifications. BAM 130 (April 2017) p. 7. Clients can be given an extension or assistance, if asked. *Id.* Petitioner's due date was 10 days after VCL mailing and there was no evidence that an extension or assistance was requested. Further, Petitioner did not submit documentation of medical expenses at the hearing which was held several weeks after VCL mailing.

Given the evidence, Petitioner was entitled to a \$145 medical expense credit. Applying a \$35 copayment results in countable expenses of \$110. Petitioner acknowledged having no child support or dependent care 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 \$██████.

Petitioner and MDHS agreed that Petitioner's countable housing expenses were \$1,209 per month. MDHHS credited Petitioner with 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 \$1,727.

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 \$329. 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 \$ [REDACTED] in net income for Petitioner's group.

A non-categorically eligible Senior/Disabled/Veteran (SDV) FAP group must have income below the net income limits. BEM 550 (January 2017) p. 1. The net income limit for a 2-person group is \$1,410. RFT 250 (October 2019) p. 1. Petitioner's net income exceeds the net-income limit. Thus, MDHHS properly determined Petitioner to be ineligible for FAP benefits due to excess net income.

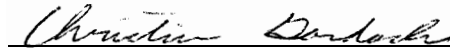
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<sup>2</sup> MDHHS allows additional credits for "actual utility expenses". Such expenses are only allowed for utility installation charges, water well installation and maintenance, and septic installation and maintenance. BEM 554 (October 2019) p. 15. There was no evidence of such expenses.

**DECISION AND ORDER**

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly terminated Petitioner's FAP eligibility beginning July 2020. The actions taken by MDHHS are **AFFIRMED**.

CG/tlf



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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-Macomb-20-Hearings  
BSC4 Hearing Decisions  
D. Sweeney  
M. Holden  
MOAHR

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

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