



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: November 16, 2020
MOAHR Docket No.: 20-006562
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 hearing was held via telephone conference line on November 12, 2020. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Olivette Gordon, manager.

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 September 2020, Petitioner was an ongoing recipient of FAP benefits with a benefit period certified through September 2020.
2. As of September 2020, Petitioner was disabled and/or senior and a member of a 1-person household.
3. As of September 2020, Petitioner received \$1,211 in gross monthly Retirement, Survivors, Disability Insurance (RSDI).
4. As of September 2020, Petitioner had monthly medical expenses of \$165. Also, Petitioner had no child support or dependent care expenses.

5. As of September 2020, Petitioner was responsible for paying \$204 of a partially subsidized monthly rent of \$650.
6. As of September 2020, Petitioner was responsible for heating and/or cooling expenses.
7. On September 1, 2020, MDHHS determined that Petitioner was eligible for \$16 in monthly FAP benefits beginning October 2020.
8. On an unspecified date, following updates to the beginning of MDHHS's fiscal year beginning October 2020, MDHHS issued \$18 in FAP benefits to Petitioner.
9. On [REDACTED], 2020, Petitioner requested a hearing to dispute the amount 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 her FAP eligibility following a redetermination of FAP benefits. Exhibit A, pp. 3-7. A Notice of Case Action dated September 1, 2020, approved Petitioner for FAP benefits of \$16 beginning October 2020. Exhibit A, pp. 8-12. MDHHS credibly testified that Petitioner's notice was sent before mass updates for FAP benefits were applied. Following the updates, Petitioner was eligible for \$18 in FAP benefits.¹

Petitioner was presumably motivated to request a hearing due to the reduction in FAP benefits. In September 2020, Petitioner was eligible to receive \$139 in FAP benefits. MDHHS testimony indicated that Petitioner's eligibility in September 2020 was calculated based on an improperly high obligation and an improperly low income. MDHHS further testified that Petitioner's case was corrected resulting in a lower benefit issuance. Though MDHHS's testimony was credible, an analysis of the entire FAP budget must be undertaken to determine if Petitioner's FAP eligibility was properly calculated.

¹ Though Petitioner was only eligible for \$16 in FAP benefits in October 2020, she likely received \$374 in monthly FAP benefits: the maximum amount of FAP benefits for her group size. RFT 260 (October 2020) p. 1. Petitioner only received the maximum FAP issuance due to a temporary policy during the COVID-19 pandemic allowing FAP recipients to receive the maximum issuance amount for the group. As the policy is only temporary, an analysis of Petitioner's FAP eligibility is appropriate.

BEM 556 outlines the factors and calculations required to determine a client's net income. FAP net income factors group size, countable monthly income, and relevant monthly expenses. During the hearing, MDHHS provided budget pages for October 2020 listing all relevant budget factors. Exhibit A, pp. 24-26. During the hearing, all budget factors were discussed with Petitioner.

In determining Petitioner's FAP eligibility, MDHHS factored a group size of one.² Petitioner's did not dispute the benefit group size.

MDHHS factored Petitioner's gross monthly RSDI of \$1,211; Petitioner did not dispute the RSDI amount factored. For FAP benefits, gross RSDI is countable. BEM 503 (April 2019) p. 29. For purposes of FAP, Petitioner's gross monthly RSDI of \$1,211 is countable.

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. It was not disputed that Petitioner was senior and/or disabled.

MDHHS factored \$165 for Petitioner's medical expenses. Applying the \$35 deductible results in \$130 in countable medical expenses. It was not disputed that Petitioner had no child support or dependent care expenses.

Petitioner's FAP benefit group size justifies a standard deduction of \$167 (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 running net income results in an adjusted gross income of \$914.

MDHHS credited Petitioner with monthly housing expenses of \$204. Before October 2020, MDHHS credited Petitioner with expenses of \$650. MDHHS reduced Petitioner's rent credit after realizing that Petitioner paid only \$204 of her monthly rent; the remainder was subsidized by the government. If an expense is partially reimbursed or paid by an agency or someone outside of the FAP group, MDHHS is to allow only the amount that the group is responsible to pay unless policy indicates otherwise.³ BEM 554 (August 2020) p. 2. Thus, MDHHS properly factored only the \$204 rent paid by Petitioner.

² See BEM 212 for policies on determining group size for FAP benefits.

³ Policy does not direct otherwise in the case of a subsidized rent obligation.

MDHHS credited Petitioner with a standard heating/utility (h/u) credit of \$547. RFT 255 (October 2019) p. 1. Generally, the h/u credit covers all utility expenses and is the maximum credit available.⁴ Adding Petitioner's housing and utility credits results in a total shelter obligation of \$751.

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 \$294.

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 \$620 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 October 2020 is \$18; the same issuance amount was calculated by MDHHS. Thus, MDHHS properly determined Petitioner's FAP eligibility.

⁴ 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 to be eligible for \$18 in FAP benefits beginning October 2020. The actions taken by MDHHS are **AFFIRMED**.

CG/tm



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-Wayne-57-Hearings
M. Holden
D. Sweeney
BSC4
MOAHR

Petitioner – Via First-Class Mail:

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