



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: June 4, 2021
MOAHR Docket No.: 20-006772
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 on June 2, 2021. Petitioner participated and was represented. [REDACTED] Petitioner's sister, testified on behalf of Petitioner and participated as Petitioner's authorized hearing representative (AHR).¹ The Michigan Department of Health and Human Services (MDHHS) was represented by Brenda Drownicki, 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 October 2020, Petitioner received ongoing FAP benefits as the only member of her benefit group.
2. As of October 2020, Petitioner received ongoing monthly Supplemental Security Income (SSI) of \$[REDACTED].
3. As of October 2020, Petitioner had no dependent care, child support, or verified out-of-pocket medical expenses.

¹ Petitioner's sister was also sworn in as an English-Filipino translator; however, no translation was needed during the hearing.

4. As of October 2020, Petitioner was responsible for \$375 in monthly housing expenses. Additionally, Petitioner was responsible for payment of electricity and phone.
5. On October 13, 2020, MDHHS determined that Petitioner was eligible to receive \$84 in monthly FAP benefits beginning November 2020.
6. On October 22, 2020, Petitioner's AHR requested a hearing to dispute the determination 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's AHR requested a hearing to dispute a determination of FAP eligibility. Exhibit A, pp. 3-4. A Notice of Case Action dated October 13, 2021, stated that Petitioner was eligible for \$84 in FAP benefits beginning November 2021.² Exhibit A, pp. 27-31.

FAP eligibility is based on a client's net income. BEM 556 outlines the factors and calculations required to determine a client's net income. FAP net income factors group size, countable monthly income, standard deductions, and relevant monthly expenses. The determination notice sent to Petitioner included a budget summary listing all relevant budget factors. Exhibit A, pp. 23-24. MDHHS also presented budget pages listing all relevant calculations. Exhibit A, pp. 25-26. During the hearing, all budget factors were discussed with Petitioner's AHR.

In determining Petitioner's FAP eligibility, MDHHS factored a group size of one.³ Petitioner's AHR did not dispute the benefit group size.

MDHHS also factored \$█ in monthly SSI benefits for Petitioner. For FAP, MDHHS is to count a gross SSI benefit. BEM 503 (January 2020) p. 34. Petitioner's AHR did not dispute the income factored by MDHHS.

² Though Petitioner was only eligible for \$84 in monthly FAP benefits, MDHHS has issued the maximum FAP issuance for a client's group size since March 2020. The extra benefits are a result of a temporary policy during the COVID-19 pandemic. As the policy is only temporary, a full analysis of Petitioner's FAP eligibility is still appropriate.

³ See BEM 212 for policies on determining group size for FAP benefits.

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 considers an uncapped excess shelter expense and the medical expenses above \$35 for each SDV group member(s). Countable expenses are subtracted from a client's monthly countable income. It was not disputed that Petitioner was disabled.

Petitioner's AHR's testimony acknowledged that Petitioner did not have child support or dependent care expenses. Petitioner's AHR testified that Petitioner had numerous medical expenses which MDHHS did not budget.

MDHHS is to verify allowable medical expenses, including the amount of reimbursement, at redetermination or when a change is reported. BEM 554 (January 2021) p. 12. Acceptable verifications include current bills, written statements from physicians, and Medicare statements. *Id.*, p. 13.

For all programs, MDHHS is to tell the client what verification is required, how to obtain it, and the due date. BAM 130 (April 2017), p. 3. MDHHS is to send a Verification Checklist (VCL) to request verification. *Id.* MDHHS is to allow the client at least 10 calendar days (or other time limit specified in policy) to provide the verification that is requested. *Id.*, p. 7.

MDHHS mailed Petitioner a VCL on October 1, 2020, requesting verification of medical expenses. Exhibit A, pp. 17-18. In response, Petitioner sent a letter listing her medications. Exhibit A, pp. 19-20. Notably, Petitioner's letter listed no specific costs; also, a letter from a client is not an acceptable verification source. Thus, MDHHS properly rejected the letter as verification of medical expenses and properly budgeted Petitioner's medical expenses as \$0.⁴

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 group's income results in an adjusted gross income of \$█.

MDHHS credited Petitioner with monthly housing expenses of \$375 and utility obligations for electricity and telephone. Petitioner's AHR submitted a letter to MDHHS verifying the same expenses. Exhibit B, p. 8. The standard credits for electricity and

⁴ With the request for hearing, Petitioner's AHR sent MDHHS a receipt listing Petitioner's prescription costs from January 2020 through October 2020. The document was not considered because it did not affect the disputed determination dated October 13, 2020. Also, MDHHS testified that no expenses were budgeted because no out-of-pocket expenses were listed from May 2020 through October 2020.

telephone are \$141 and \$29, respectively. RFT 255 (October 2020) p. 1. Adding Petitioner's housing expenses and utility credits results in a total shelter obligation of \$545.

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 \$230.

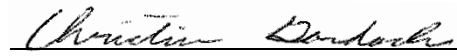
The FAP benefit group's net income is determined by subtracting the excess shelter expense from the group's adjusted gross income; doing so results in \$400 in net income for Petitioner's group. A chart listed in RFT 260 is used to determine the proper FAP benefit issuance. Based on Petitioner's group size and net income, Petitioner's proper FAP benefit issuance for November 2020 is \$█; the same issuance amount was calculated by MDHHS. Thus, MDHHS properly determined Petitioner's FAP eligibility.

Petitioner should be aware that she may be eligible to receive FAP benefits through the Michigan Combined Application Project (MiCAP). BEM 618 (October 2020) p. 1. MiCAP is a FAP demonstration project available to persons whose only income is SSI benefits. Generally, FAP issuances through MiCAP are higher than those processed through local MDHHS offices. Petitioner may pursue FAP eligibility through MiCAP by calling (877) 522-8050. This information is provided to Petitioner only as a courtesy and does not affect MDHHS's proper determination of FAP benefits.

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 \$█ in FAP benefits beginning November 2020. The actions taken by MDHHS are **AFFIRMED**.

CG/jm



Christian Gardocki
Administrative Law Judge

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-12-Hearings
M. Holden
D. Sweeney
BSC4-HearingDecisions
MOAHR

Petitioner – Via USPS:

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Authorized Hearing Rep. – Via USPS:

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