



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR



Date Mailed: December 21, 2020
MOAHR Docket No.: 20-006886
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 December 17, 2020. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Kelly Teed, hearings facilitator.

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 September 2020, Petitioner was an ongoing FAP recipient as a grantee with two children. Neither Petitioner nor her children were senior, disabled, or disabled veterans.
2. On [REDACTED], 2020, Petitioner applied for State Emergency Relief and reported disability income from her employer.
3. As of September 2020, Petitioner received \$625 in ongoing weekly gross income from Chrysler (hereinafter, "Employer").
4. As of October 2020, Petitioner had \$0 reported dependent care or child support expenses.

5. As of October 2020, Petitioner was responsible for \$850 in monthly housing expenses and heating and/or cooling expenses.
6. On October 7, 2020, MDHHS terminated Petitioner's FAP eligibility beginning November 2020 due to excess net income.
7. On October 27, 20, Petitioner verbally requested a hearing to dispute her FAP eligibility.

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 verbally requested a hearing to dispute a termination of FAP benefits.¹ A Notice of Case Action dated October 7, 2020, stated that Petitioner was ineligible for FAP benefits beginning November 2020 due to excess 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, and relevant monthly expenses. During the hearing, MDHHS provided documents for November 2020 listing all relevant budget factors. Exhibit A, pp. 37-39. During the hearing, all relevant budget factors were discussed with Petitioner.

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

MDHHS projected Petitioner's income from recently started ongoing gross weekly disability-related pays from Employer of \$625. Exhibit A, pp. 13-21. For FAP benefits, MDHHS generally counts gross wages.³ BEM 501 (July 2017), p. 7. For non-child support income, MDHHS uses past income to project a FAP group's income. BEM 505 (October 2017) p. 5. Stable or fluctuating weekly employment income is converted to a monthly amount by multiplying the average income by 4.3. *Id.*, p. 8. Multiplying Petitioner's average weekly gross employment income by 4.3 results in a monthly income of \$2,687 (dropping cents). MDHHS determined the same employment income for Petitioner. MDHHS allows a 20% budget credit for timely reported employment

¹ Clients may verbally request hearings to dispute ongoing FAP eligibility. BAM 600 (January 2020) p. 2.

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

³ Exceptions to using gross wages include the following: earned income tax credits, flexible benefits, striker earnings, student disregards, and census worker earnings. BEM 501 (July 2017), p. 7. None of these exceptions apply to the present case.

income. Applying the credit results in countable employment income of \$2,149 (dropping cents).

It was not disputed that Petitioner began receiving \$187 in monthly child support for each of her two children.⁴ Thus, Respondent received \$374 in monthly child support. Child support is income to the child for whom the support is paid. BEM 503 (September 2020) p. 6. Adding the \$374 in child support to the \$2,149 in countable wages results in income of \$2,523.

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 acknowledged having no SDV members in her group; thus, medical expenses are not allowed. It was not disputed that Petitioner did not report child support or dependent care expenses to MDHHS.

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 \$2,356.⁵

MDHHS credited Petitioner with monthly housing expenses of \$850; Petitioner did not allege having additional housing expenses. Petitioner was credited with a standard heating/utility (h/u) credit of \$547. RFT 255 (October 2020) p. 1. Generally, the h/u credit covers all utility expenses and is the maximum credit available.⁶ Adding Petitioner's housing and utility credits results in a total shelter obligation of \$1,397.

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 \$219.

⁴ MDHHS testified that a higher child support income was originally budgeted, but that income was reduced after Petitioner reported that her ongoing monthly child support for each child was \$187.

⁵ MDHHS calculated an adjusted gross income of \$2,391 by incorrectly adding the standard \$35 medical expense copayment to Petitioner's income.

⁶ 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 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 \$2,137 in net income for Petitioner's group.⁷ 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 \$0; the same issuance amount was calculated by MDHHS. Thus, MDHHS properly terminated Petitioner's FAP eligibility.

⁷ MDHHS's error in adjusted gross income led to calculating an improper net income amount of \$2,189.

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 November 20120 due to excess net income. 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-Macomb-12-Hearings
M. Holden
D. Sweeney
BSC4
MOAHR

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

