



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

[REDACTED]

Date Mailed: December 21, 2020  
MOAHR Docket No.: 20-006936  
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 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 was an ongoing disabled FAP recipient with no other group members.
2. As of October 2020, Petitioner received \$860 in weekly gross income from Retirement, Survivors, Disability Insurance (RSDI)
3. As of October 2020, Petitioner had \$0 reported dependent care, medical, or child support expenses.
4. As of October 2020, Petitioner reported to MDHHS a rent of \$400 which included all utilities but telephone.

5. On October 12, 2020, MDHHS determined Petitioner to be eligible for \$21 in FAP benefits beginning November 2020.
6. On October 27, 2020, Petitioner 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 requested a hearing to dispute a determination of FAP benefits. Exhibit A, p. 3. A Notice of Case Action dated October 12, 2020, stated that Petitioner was eligible for \$21 in FAP benefits beginning November 2020.<sup>1</sup> Exhibit A, pp. 8-9.

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. MDHHS presented Petitioner's FAP budget for November 2020 listing all relevant calculations. Exhibit A, pp. 4-8. Additionally, the notice dated October 12, 2020, included a budget summary listing all relevant income and expenses. During the hearing, all relevant budget factors were discussed with Petitioner.

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

It was not disputed that Petitioner received \$860 in gross monthly RSDI. For FAP benefits, gross RSDI is countable. BEM 503 (April 2019) p. 29. For purposes of FAP, Petitioner's gross monthly RSDI of \$860 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.

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<sup>1</sup> Though Petitioner was only eligible for \$21 in FAP benefits beginning November 2020, MDHHS issued the maximum amount of FAP benefits for a group size since March 2020 due to a temporary policy during the COVID-19 pandemic.

<sup>2</sup> See BEM 212 for policies on determining group size for FAP benefits.

It was not disputed that Petitioner was disabled; thus, she is potentially eligible for medical expense credits. MDHHS factored that Petitioner had no medical, dependent care, or child support expenses. Petitioner's testimony acknowledged the same.

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 \$693

MDHHS credited Petitioner with shelter expenses of \$400 and a standard telephone credit of \$29 (see RFT 255). Petitioner's testimony acknowledged reporting and verifying the same expenses. Petitioner testified that she actually is responsible for paying utilities, and she wishes to report this information immediately. Petitioner's testimony would not alter MDHHS's determination because she failed to report the change before the hearing.<sup>3</sup> Adding Petitioner's shelter and utility credits results in a total shelter obligation of \$429.

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 \$83 (rounding up to nearest dollar).

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 \$610 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 \$21; the same issuance amount was calculated by MDHHS. Thus, MDHHS properly determined Petitioner's FAP eligibility.

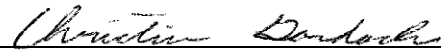
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<sup>3</sup> MDHHS was advised to treat Petitioner's testimony as a reported change and to process it in accordance with policy.

**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 \$21 in FAP benefits beginning November 2020. The actions taken by MDHHS are **AFFIRMED**.

CG/tm

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

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

