



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: February 17, 2021
MOAHR Docket No.: 20-007913
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 February 11, 2021. Petitioner was present but did not testify. [REDACTED], Petitioner's guardian and father (hereinafter, "Father"), testified and participated as Petitioner's authorized hearing representative. The Michigan Department of Health and Human Services (MDHHS) was represented by Aundrea Jones, hearings facilitator.

ISSUE

The issue is whether MDHHS properly denied Petitioner's Food Assistance Program (FAP) application.

FINDINGS OF FACT

The administrative law judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On [REDACTED], 2020, Petitioner applied for FAP benefits in a household with Father. Petitioner reported that she and Father buy and make food together.
2. As of November 2020, Petitioner and Father received monthly gross RSDI of \$1,221 and \$1,981, respectively.
3. As of November 2020, Petitioner's household had no dependent care or child support expenses. Father had \$260 in monthly medical expenses.
4. As of November 2020, Petitioner and Father were responsible for \$600 in monthly housing expenses and a heating bill.

5. On December 1, 2020, MDHHS denied Petitioner's application for FAP benefits due to excess net income.
6. On [REDACTED], 2020, Father requested a hearing to dispute the denial 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).

Father verbally requested a hearing to dispute the denial of an application dated [REDACTED] 2020, requesting FAP benefits.¹ A Notice of Case Action dated December 1, 2020, stated that Petitioner and Father were ineligible for FAP benefits due to excess net income. Exhibit A, pp. 8-12.

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 provided budget documents which listed all relevant factors and calculations. Exhibit A, pp. 13-14. Additionally, the notice of application denial sent to Petitioner included a summary of all relevant budget factors. Exhibit A, p. 9. During the hearing, all budget factors were discussed with Father.

In determining Petitioner's FAP eligibility, MDHHS factored a group size of two persons: Petitioner and Father. Father testified that Petitioner previously received FAP benefits without him as a group member and questioned why he now must be included in Petitioner's benefit group. Father's testimony implicitly contended that Petitioner should be a group that includes only herself.

FAP group composition is established by determining the following: who lives together, the relationship(s) of the people who live together, whether the people living together purchase and prepare food together or separately, and whether the person(s) resides in an eligible living situation. BEM 212 (October 2020), p. 1. Generally, persons who live together, and buy and prepare food together are members of the same FAP group. *Id.*, p. 6. The phrase, "purchase and prepare together", is meant to describe persons who usually share food in common. *Id.*, p. 5. Persons usually share food in common if any of the following conditions exist:

- They each contribute to the purchase of food.

¹ Petitioner verbally requested a hearing on [REDACTED], 2020. Clients may verbally request hearings to dispute FAP eligibility. BAM 600 (January 2020) p. 2. MDHHS documented the hearing request on Exhibit A, pp. 3-4.

- They share the preparation of food, regardless of who paid for it.
- They eat from the same food supply, regardless of who paid for it. *Id.*, p. 6.

MDHHS testified that Petitioner answered “no” to the application question asking, “Does anyone buy and make food separately from the rest of the household?” Also, during an interview with a specialist on December 1, 2020, Father stated that he and Petitioner eat and prepare food together. Given Petitioner’s application answer and Father’s interview statement, MDHHS properly determined that Petitioner and Father buy and prepare food together; thus, they must be in the same benefit group.

MDHHS factored Petitioner’s gross monthly RSDI of \$1,221 and Father’s RSDI of \$1,981; neither amount was disputed. For FAP benefits, gross RSDI is countable. BEM 503 (April 2019) p. 29. Adding Petitioner’s and Father’s RSDI results in a countable monthly unearned income of \$3,202.

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 and Father were disabled. It was also not disputed that Father and Petitioner had \$260 in combined monthly medical expenses and that neither had child support nor dependent care expenses. Applying a \$35 deductible to the medical expenses results in \$225 in countable 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 the group’s countable income results in an adjusted gross income of \$2,810.

MDHHS credited Petitioner with monthly housing expenses of \$600. The amount was not disputed. MDHHS credited Petitioner with a standard heating/utility (h/u) credit of \$537. RFT 255 (October 2020) p. 1. Generally, the h/u credit covers all utility expenses and is the maximum credit available.² Adding Petitioner’s housing and utility credits results in a total shelter obligation of \$1,137.

² 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.


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 \$0.

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 \$2,810 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 \$0; the same issuance amount was calculated by MDHHS. Thus, MDHHS properly denied Petitioner’s application for FAP benefits due to excess net income.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly denied Petitioner's application for FAP benefits dated [REDACTED] 2020, due to excess net income. The actions taken by MDHHS are **AFFIRMED**.

CG/tm



Christian Gardocki
Administrative Law Judge
for Elizabeth Hertel, 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-18-Hearings
M. Holden
D. Sweeney
BSC4
MOAHR

Petitioner – Via First-Class Mail:

████████████████████
████████████████████
████████████████████