



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: March 26, 2021
MOAHR Docket No.: 21-000880
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 March 24, 2021. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Princess Ogundipe, specialist.

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. On November 19, 2020, Petitioner returned to MDHHS redetermination documents to continue FAP eligibility beginning January 2021. Petitioner reported a household of one. Petitioner also reported having no medical, dependent care, or child support expenses. No utility obligations were reported.
2. On January 4, 2021, MDHHS mailed Petitioner notice of a termination of FAP benefits beginning January 2021.
3. As of January 2021, Petitioner last reported to MDHHS a monthly housing obligation of \$308.
4. As of January 2021, Petitioner received \$1,166 in monthly Retirement, Survivors, Disability Insurance (RSDI).

5. On [REDACTED] 2021, Petitioner requested a hearing to dispute the termination of FAP benefits.
6. On February 17, 2021, MDHHS determined that Petitioner was eligible for \$16 in FAP benefits beginning January 2021.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) [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. The Department (formerly known as the Department of Human Services) 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 termination of FAP benefits. Exhibit A, pp. 3-4. A Notice of Case Action dated January 4, 2021, stated that Petitioner's FAP eligibility stopped January 2021 because of a failure to be interviewed. MDHHS testified that Petitioner specifically failed to be interviewed as part of a redetermination of FAP benefits. MDHHS acknowledged that the termination was improper because of a temporary policy waiving interview requirements for disabled persons.¹ MDHHS credibly testified that Petitioner's FAP eligibility was reinstated beginning January 2021. Despite reinstatement, Petitioner still expressed dissatisfaction over the amount of her FAP eligibility. A Notice of Case Action dated February 17, 2021, stated that Petitioner was eligible for \$16 in FAP benefits beginning January 2021 based on a net income of \$999.² Exhibit A, pp. 21-25. The analysis will proceed to determine if MDHHS properly corrected Petitioner's FAP eligibility.

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 budget documents listing the factors and calculations of how Petitioner's eligibility was determined. Exhibit A, pp. 18-19. During the hearing, all budget factors were discussed with Petitioner.

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

¹ Petitioner also testified that MDDHS also should not have terminated her FAP eligibility because she was compliant with interview requirements.

² Though Petitioner was only eligible for \$16 in FAP benefits, MDHHS issued \$234 in FAP benefits to Petitioner in January 2021. Since March 2020, due to a temporary policy during the COVID-19 pandemic, MDHHS has issued the maximum amount of FAP benefits (based on group size) to eligible clients. Because the policy is temporary, Petitioner is entitled to dispute her eligibility.

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

It was not disputed that Petitioner received \$1,166 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 \$1,166 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.

MDHHS budgeted no day care, child support, or medical expenses for Petitioner. Petitioner's testimony acknowledged having no child support or dependent care expenses. Petitioner claimed to have medical expenses.

MDHHS is to complete a budget every time an expense change is reported. BEM 554 (January 2021) p. 3. On a redetermination form submitted to MDHHS by Petitioner on November 19, 2020, Petitioner left blank a section asking if she had medical expenses. Exhibit A, p. 9. There was no evidence of Petitioner reporting medical expenses after her redetermination submission. Petitioner's failure to report medical expenses justifies MDHHS counting no medical expenses in determining Petitioner's FAP eligibility. As discussed during the hearing, Petitioner is encouraged to report and/or submit medical expenses to MDHHS for consideration in future benefit eligibility.

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 \$999.

MDHHS credited Petitioner with undisputed monthly housing expenses of \$308. MDHHS credited Petitioner with an electricity obligation. Petitioner testified she had additional utility obligations.⁴ Turning back to Petitioner's redetermination documents, Petitioner left blank a section asking her to report utility obligations. Exhibit A, p. 11. Again, Petitioner's failure to report expenses would justify MDHHS in not counting the expenses. There was no evidence of a subsequent reporting of utility obligations.⁵ Given the evidence, MDHHS properly determined Petitioner only eligible for an

⁴ MDHHS's Hearing Summary indicated that attempts were made to verify a heat obligation for Petitioner. MDHHS indicated that the DTE database and Petitioner's history of LIHEAP payments were checked and no evidence of a heat obligation was discovered.

⁵ Petitioner testified that her housing expenses changed after she submitted her redetermination documents. There was also evidence of a reported change in housing expenses because the \$308 in housing expenses was not previously budgeted nor reported on her redetermination document.

electricity obligation.⁶ The standard credit for an electricity obligation is \$141. RFT 255 (October 2020) p. 1. Adding Petitioner's housing and utility credits results in a total shelter obligation of \$449.

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 \$999 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 January 2021 is \$16; the same issuance amount was calculated by MDHHS. Thus, MDHHS properly determined Petitioner's FAP eligibility.

⁶ Petitioner testified that she was responsible for paying for the operation of air conditioning. During the hearing, MDHHS was advised to accept Petitioner's testimony as a reporting of a utility obligation and to process Petitioner's case accordingly. Petitioner's reporting should entitle her to the maximum utility credit available.

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 \$16 in FAP benefits beginning January 2021. 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:

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