



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]
[REDACTED]

Date Mailed: May 12, 2021
MOAHR Docket No.: 21-001785
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 May 5, 2021. Petitioner did not participate in the hearing. [REDACTED] Petitioner's legal guardian testified and participated as Petitioner's authorized hearing representative (AHR). The Michigan Department of Health and Human Services (MDHHS) was represented by Tom Jones, supervisor.

ISSUES

The first issue is whether Petitioner received the proper amount of Food Assistance Program (FAP) benefits for the months from January 2021 through March 2021.

The second issue is whether MDHHS properly determined Petitioner's FAP eligibility beginning February 2021.

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 January 2021, Petitioner was a disabled individual and a recipient of FAP benefits as a 1-person group with a benefit period certified through January 2021.
2. In January 2021, MDHHS issued \$234 in FAP benefits to Petitioner.
3. As of February 2021, Petitioner received \$627 in monthly income from the [REDACTED].

4. As of February 2021, Petitioner had no childcare, child support, or reported medical expenses.
5. As of February 2021, Petitioner had no reported housing or utility obligations other than telephone.
6. On March 18, 2021, MDHHS issued \$132 in FAP benefits to Petitioner for February 2021 and March 2021.
7. On March 18, 2021, MDHHS determined that Petitioner was eligible for \$66 in monthly FAP benefits beginning February 2021.
8. On [REDACTED], 2021, Petitioner's AHR requested a hearing to dispute Petitioner's FAP issuances from January 2021 through March 2021 and Petitioner's ongoing FAP eligibility of \$66.
9. On March 26, 2021, MDHHS issued \$336 in FAP benefits to Petitioner for February 2021 and March 2021.

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 the amount of Petitioner's FAP eligibility. Exhibit A, pp. 4-5. Petitioner's AHR testified that she had two specific disputes: the first concerned absent and/or reduced FAP benefits. Petitioner's AHR claimed that Petitioner received no FAP benefits for January 2021 and only \$66 in FAP benefits for February 2021 and March 2021. Petitioner's AHR provided no corroboration for her claim.

MDHHS responded that Petitioner was a 1-person group who received the maximum FAP issuance for all benefit months from January 2021 through March 2021. MDHHS acknowledged that FAP benefits for February 2021 were not issued until the following month due to a delay in processing Petitioner's benefit redetermination; nevertheless, MDHHS contended that Petitioner ultimately received the maximum amount of FAP benefits for her group size. To verify its testimony, during the hearing, MDHHS emailed FAP issuance documents listing the following FAP issuances to Petitioner:

<u>Issuance date</u>	<u>Issuance amount</u>	<u>Benefit month</u>
January 19, 2021	\$204	January 2021
January 29, 2021	\$30	January 2021
March 18, 2021	\$66	February 2021
March 18, 2021	\$66	March 2021
March 26, 2021	\$9	February 2021
March 26, 2021	\$159	February 2021
March 26, 2021	\$9	March 2021
March 26, 2021	\$159	March 2021 Exhibit B, pp. 1-4. ¹

As a 1-person group, the maximum FAP issuance available to Petitioner in January 2021 is \$234. RFT 260 (January 2021) p. 1. The documentation sent by MDHHS verified that Petitioner ultimately received \$234 in FAP benefits for January 2021, February 2021, and March 2021. The evidence established that Petitioner received the maximum FAP issuance for her group; therefore, Petitioner is not entitled to any administrative remedy concerning FAP issuances from January 2021 through March 2021.

Petitioner's AHR testified that she also requested a hearing to dispute Petitioner's ongoing FAP eligibility. She stated that Petitioner, as a disabled individual, should be eligible for more FAP benefits than calculated by MDHHS. A Notice of Case Action dated March 18, 2021, stated that Petitioner was eligible for \$66 in FAP benefits beginning February 2021.² Exhibit A, pp. 9-10.

BEM 556 outlines the factors and calculations required to determine a client's net income for FAP benefits. FAP net income factors group size, countable monthly income, and relevant monthly expenses. The determination notice sent to Petitioner included a budget summary which listed all relevant budget factors. 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 factored that Petitioner received a monthly unearned income of \$627 from RSDI and/or SSI. For FAP benefits, gross RSDI is countable. BEM 503 (January 2020) p. 29. Gross SSI is also countable. *Id.*, p. 35. Petitioner's AHR did not dispute the budgeted unearned income.

¹ For unknown reasons, the emailed documents would not print to display FAP issuances of \$66 and \$9 issuances to Petitioner for February 2021; however, the original email clearly listed that the issuances were made.

² Though Petitioner was only eligible for \$66 in monthly FAP benefits, MDHHS has been issuing the maximum FAP issuance for Petitioner'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 also considers the medical expenses above \$35 for each SDV group member(s) and an uncapped excess shelter expense. It was not disputed that Petitioner was a disabled individual.

MDHHS factored \$0 for Petitioner's child support, dependent care and medical expenses. Petitioner's AHR acknowledged that Petitioner had no child support or dependent care expenses. Petitioner's AHR claimed that Petitioner had medical expenses, though she also acknowledged that she did not report the medical expenses to MDHHS. MDHHS cannot be faulted for failing to factor unreported expenses.⁴ Thus, MDHHS properly counted \$0 medical expenses for Petitioner.

Petitioner's FAP benefit group size justifies a standard deduction of \$167 (see RFT 255).⁵ 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 countable income results in an adjusted gross income of \$460.

Petitioner's AHR testified that Petitioner was responsible for \$350 in monthly housing expenses. MDHHS did not credit Petitioner for any housing expenses. MDHHS credibly testified that no housing expenses were reported on a recently submitted redetermination from Petitioner; thus, no expenses were credited. MDHHS further testified that housing expenses were subsequently reported and credited resulting in an increase of FAP eligibility for May 2021. Petitioner's AHR did not claim to report housing expenses before MDHHS determined Petitioner's FAP eligibility on March 18, 2021. Given the evidence, MDHHS properly did not credit Petitioner for housing expenses.

Concerning utilities, MDHHS credited Petitioner with a telephone obligation. Petitioner's AHR did not claim that Petitioner was responsible for utility obligations other than telephone. Under the circumstances, Petitioner is only entitled to a standard credit of \$29 for telephone. RFT 255 (January 2021) p. 1.

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

⁴ MDHHS is to act on changes reported by clients within 10 days. BAM 210 (January 2021) p. 7. If the change is timely verified, it becomes effective no later than the first allotment issued 10 days after the reporting date of change. *Id.*

⁵ Petitioner's AHR's hearing request complained that Petitioner "has never been told... that housing expenses was a standard deduction of \$167". Housing expenses have no bearing on the standard deduction amount, but are considered later in the budget process.

Petitioner's total shelter obligation (housing + utilities). 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 \$460 in net income for Petitioner's group. A chart listed in RFT 260 is used to determine a client's proper FAP eligibility. Based on Petitioner's group size and net income, Petitioner is eligible for \$66 in FAP benefits for February 2021; the same issuance amount was calculated by MDHHS.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly issued \$234 in monthly FAP benefits to Petitioner for January 2021 through March 2021. It is further found that MDHHS properly determined Petitioner to be eligible for \$66 in FAP benefits beginning February 2021. The actions taken by MDHHS are **AFFIRMED**.

CG/tm



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-Oakland-3-Hearings
M. Holden
D. Sweeney
BSC4
MOAHR

Authorized Hearing Rep.

[REDACTED]
[REDACTED]
[REDACTED]

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]