



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: June 2, 2021
MOAHR Docket No.: 21-001869
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 May 24, 2021. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Valarie Foley, hearings facilitator. [REDACTED], Petitioner's son, participated as an Arabic-English translator.

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 April 2021, Petitioner was a member of a FAP benefit group that included her spouse, her son [REDACTED] hereinafter, "Son"), and a second minor child.
2. As of April 2021, MDHHS budgeted ongoing weekly gross income of \$[REDACTED] for Petitioner's spouse's employment with [REDACTED] (hereinafter, "Employer1"). Petitioner had not reported to MDHHS any stoppage in her spouse's employment with Employer1.
3. As of April 2021, Petitioner's spouse received \$[REDACTED] in weekly employment income from [REDACTED] (hereinafter, "Employer2").
4. As of April 2021, Son received \$[REDACTED] in monthly Supplemental Security Income (SSI).

5. As of April 2021, no members of Petitioner's group had dependent care, child support, or out-of-pocket medical expenses.
6. As of April 2021, Petitioner was responsible for paying heating and/or cooling expenses and \$601.47 for monthly housing expenses.
7. On April 7, 2021, MDHHS reduced Petitioner's FAP eligibility to \$[REDACTED] per month beginning May 2021.
8. On April 12, 2021, Petitioner requested a hearing to dispute the reduction of 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 reduction in FAP eligibility.¹ Exhibit A, p. 3. A Notice of Case Action dated April 7, 2021, stated that Petitioner was eligible for \$179 in FAP benefits beginning May 2021.² Exhibit A, pp. 4-9.

FAP eligibility is based on a client's 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, standard deductions, and relevant monthly expenses. The notice sent to Petitioner included a budget summary listing all relevant budget factors. MDHHS also presented budget pages listing some of the budget calculations. Exhibit A, pp. 16-18. During the hearing, all relevant budget factors were discussed with Petitioner.

In determining Petitioner's FAP eligibility, MDHHS factored a group size of four, which included Petitioner, her spouse, Son, and a second minor child.³ Petitioner did not dispute the benefit group size.

MDHHS calculated employment income of \$[REDACTED] for Petitioner's spouse. MDHHS presented documentation for Spouse's employment with Employer1 listing [REDACTED] in

¹ Clients may orally request hearings to dispute FAP eligibility. BAM 600 (January 2021) p 5.

² Though Petitioner was only eligible for \$179 in monthly FAP benefits, MDHHS has issued the maximum FAP issuance for a client'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.

gross weekly earnings covering July 1, 2020, through July 24, 2020. Exhibit A, p. 15. Documentation of Petitioner's Spouse's earnings with Employer2 listed \$[REDACTED] in weekly gross earnings from October 2, 2020, through November 6, 2020. Exhibit A, pp. 13-14. For FAP benefits, MDHHS generally counts gross wages.⁴ BEM 501 (July 2017), p. 7. 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 spouse's weekly combined gross employment income (\$[REDACTED] per week) by 4.3 results in a monthly income of \$[REDACTED] (dropping cents). MDHHS allows a 20% budget credit for timely reported employment income. Applying the credit results in countable employment income of \$[REDACTED] (dropping cents).

Petitioner's testimony contended that her spouse stopped working for Employer1 earlier in 2021. She also testified that she verbally reported the employment stoppage to MDHHS on an unspecified date in or near March 2021. MDHHS responded that there was no evidence of Petitioner's reporting from March 2021, though a reporting from May 2021 was acknowledged. MDHHS has 10 days to act on a reported change to affect FAP eligibility. BAM 220 (January 2021) p. 7. Whether Petitioner reported a stoppage in her spouse's employment with Employer1 in March 2021 dictates whether MDHHS properly counted the income in determining FAP eligibility on April 7, 2021.

Petitioner did not allege submitting any documentation to MDHHS verifying the stoppage; thus, Petitioner's submissions to MDHHS cannot corroborate her claim of reporting. Petitioner did not submit a written hearing request claiming that she reported a stoppage in employment; thus, her hearing request cannot corroborate her testimony. Petitioner's uncorroborated testimony was insufficient to establish that she reported a stoppage in her spouse's employment with Employer1. Thus, MDHHS properly factored her spouse's income from Employer1 and properly calculated the countable household employment to be \$[REDACTED].⁵

It was not disputed that Son received \$[REDACTED] in gross monthly SSI. Exhibit A, pp. 10-11. For FAP, MDHHS is to count a gross SSI benefit. BEM 503 (January 2020) p. 34. Adding the group's countable employment income and SSI results in a total gross income of \$[REDACTED].

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 considers an uncapped excess shelter

⁴ 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.

⁵ Petitioner acknowledged receiving on the date of the hearing documents to be completed by Employer1 to verify her spouse's stopped employment. MDHHS can update Petitioner's FAP eligibility to reflect stopped income with Employer1 once it receives verification that income from Employer1 ended.

expense and the medical expenses above \$35 for each SDV group member(s). Countable expenses are subtracted from a client's monthly countable income.

Petitioner's testimony acknowledged that her household did not have child support or dependent care expenses. Petitioner testified that Son has medical obligations, but she did not allege having any out-of-pocket medical expenses for Son exceeding \$35. Given the evidence, Petitioner is not entitled to child support, dependent care, or medical expense deductions.

Petitioner's FAP benefit group size justifies a standard deduction of \$181 (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 group's income results in an adjusted gross income of \$[REDACTED].

MDHHS credited Petitioner with monthly housing expenses of \$601.47; Petitioner did not allege having additional housing expenses. Petitioner was credited with a standard heating/utility (h/u) credit of \$537. RFT 255 (January 2021) 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 \$1,138.47.

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 \$203 (rounding to nearest dollar).

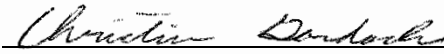
The FAP benefit group's net income is determined by subtracting the excess shelter expense from the group's adjusted gross income; doing so results in \$[REDACTED] in net income for Petitioner's group. A chart listed in RFT 260 is used to determine the proper FAP benefit issuance. Based on Petitioner's group size and net income, Petitioner's proper FAP benefit issuance for May 2021 is \$[REDACTED] the same issuance amount was calculated by MDHHS. Thus, MDHHS properly determined Petitioner's FAP eligibility.

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.

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 \$[REDACTED]n FAP benefits beginning May 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-Wayne-19-Hearings
M. Holden
D. Sweeney
BSC4
MOAHR

Petitioner – Via First-Class Mail:

[REDACTED]
[REDACTED]
[REDACTED]