

5. As of April 2021, Petitioner received \$[REDACTED] in gross unearned income.
6. As of April 2021, Petitioner received \$[REDACTED] in weekly income from Employer.
7. As of April 2021, Petitioner had no child support expenses and MDHHS factored that Petitioner's household had \$200 in monthly medical expenses.
8. As of April 2021, Petitioner was responsible for \$900 in monthly housing expenses and a heating and/or cooling expense.
9. On May 10, 2021, Petitioner requested a hearing to dispute her FAP eligibility.
10. On an unspecified date, MDHHS updated Petitioner's FAP case based on Petitioner's reported dependent care expenses and determined Petitioner to still be eligible for \$16 in monthly 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).

Petitioner requested a hearing to dispute a determination of FAP benefits.¹ Exhibit A, pp. 3-6. A Notice of Case Action dated March 15, 2021, stated that Petitioner was eligible for \$16 in FAP benefits beginning March 2021.² Exhibit A, pp. 27-30. Petitioner subsequently reported weekly dependent care expenses of \$50 which MDHHS did not initially factor. MDHHS credibly testified that Petitioner's eligibility was recently updated to include all expenses and Petitioner was still eligible for \$16 in FAP benefits.

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. MDHHS presented budget documents for April 2021 which included some unchanged budget factors. Exhibit A, pp. 25-26. MDHHS provided testimony for all budget factors and all budget factors were discussed with Petitioner during the hearing.

¹ Petitioner previously requested a hearing to dispute FAP eligibility. Petitioner's earlier hearing request was dismissed after failing to appear for the hearing. Exhibit A, pp. 8-14. Despite the previously dismissed hearing request, Petitioner is not barred from again requesting a hearing.

² Though Petitioner was only eligible for \$16 in FAP benefits for March 2021, she should have received the maximum amount of FAP benefits for her group size. Petitioner only received the maximum FAP issuance due to a temporary policy during the COVID-19 pandemic. As the policy is only temporary, a full analysis of Petitioner's FAP eligibility is appropriate.

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

MDHHS factored an unearned income of \$[REDACTED] for Petitioner's group. Petitioner did not dispute the unearned income amount factored by MDHHS.

It was not disputed that Petitioner received weekly gross income of \$[REDACTED] from Employer.⁴ For FAP benefits, MDHHS generally counts gross wages.⁵ BEM 501 (July 2017), p. 7. For non-child support income, MDHHS uses past income to project a FAP group's income. BEM 505 (October 2017) p. 5. 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 average weekly gross employment income of \$[REDACTED] by 4.3 results in a monthly employment income of \$[REDACTED].

MDHHS allows a 20% budget credit for timely reported employment income. Applying the credit results in countable employment income of \$[REDACTED] (dropping cents). Adding Petitioner's countable employment income of \$[REDACTED] to the countable unearned income of \$[REDACTED] results in total countable 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 also considers the medical expenses above \$35 for each SDV group member(s) and an uncapped excess shelter expense.

MDHHS factored \$165 in countable medical expenses (\$200 in actual expenses) for Petitioner's group.⁶ Additionally, MDHHS factored no child support expenses and \$200 for dependent care expenses. Petitioner did not dispute any of the expenses factored by MDHHS. All totaled, Petitioner had \$365 in non-housing 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 non-housing expenses are subtracted from the countable monthly income to calculate the

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

⁴ Petitioner reported her employment to MDHHS on a Change Report dated February 21, 2020. Exhibit A, pp. 15-16. Later, she reported and verified weekly income of \$[REDACTED] from employment. Presented pay documents however, listed weekly income of less than \$[REDACTED] per week. Exhibit A, pp. 21-23.

⁵ 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.

⁶ Petitioner testified that she had many out-of-pocket medical expenses, but not her disabled child who was covered by Medicaid. MDHHS only allows expense credits for persons who are SDV members. There was no evidence that Petitioner was an SDV member. Thus, unless the \$200 in expenses can be attributed to Petitioner's child (or Petitioner was an SDV member), the credit was improperly allowed.

group's adjusted gross income. Subtracting the standard deduction and countable expenses from Petitioner's countable income results in an adjusted gross income of \$[REDACTED].

MDHHS credited Petitioner with undisputed monthly housing expenses of \$900. 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.⁷ Adding Petitioner's housing and utility credits results in a total shelter obligation of \$1,437.

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 \$433 (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 \$[REDACTED] in net income for Petitioner's group. A chart listed in RFT 260 is used to determine the proper FAP benefit issuance.⁸ Based on Petitioner's group size and net income, Petitioner's proper FAP benefit issuance is \$16; the same issuance amount was calculated by MDHHS. Thus, MDHHS properly determined Petitioner's FAP eligibility.

⁷ 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.

⁸ Beginning January 2021, amounts listed in RFT 260 include a 15% supplement of benefits which factor temporary federal supplements but are not part of a client's ongoing monthly eligibility. RFT 260 (October 2020) was relied on in determining the correct amount of Petitioner's FAP eligibility.

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 March 2021. The actions taken by MDHHS are **AFFIRMED**.

CG/jm



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-Macomb-20-Hearings
BSC4-HearingDecisions
M. Holden
D. Sweeney
MOAHR

Petitioner – Via First-Class Mail:

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