



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

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████████████████████, MI ██████████

Date Mailed: July 23, 2021
MOAHR Docket No.: 21-002627
Agency No.: ██████████
Petitioner: ██████████

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 July 19, 2021. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Brenda Drewnicki, hearings facilitator. Linda Jordan of the Michigan Office of Administrative Hearings and Rules observed the hearing.

ISSUE

The issue is whether MDHHS properly denied Petitioner's application for Food Assistance Program (FAP) benefits due to excess net income.

FINDINGS OF FACT

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

1. In December 2020, Petitioner's three children received \$████████ in child support.
2. In January 2021, Petitioner's three children received \$████████ in child support.
3. In February 2021, Petitioner's three children received \$████████ in child support.
4. In March 2021, Petitioner received the following ongoing gross biweekly employment income: \$████████ on March 10, 2021, and ██████████ on March 19, 2021.
5. On ██████████ 2021, Petitioner applied for FAP benefits and reported a household with three children; none of the members were over the age of 60, disabled, or disabled veterans.

6. As of March 2021, Petitioner had the following expenses: ■ for child support, ■ for dependent care, ■ for housing, and a monthly heating/cooling obligation.
7. On May 13, 2021, MDHHS denied Petitioner's application for FAP benefits due to excess net income.
8. On ■, 2021, Petitioner requested a hearing to dispute FAP eligibility.
9. On July 15, 2021, MDHHS again denied Petitioner's application for FAP benefits due to excess net income.

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 denial of FAP benefit application. Exhibit A, pp. 3-4. Petitioner applied for FAP benefits on ■ 2021. Exhibit B, pp. 1-7. MDHHS initially denied the application on May 13, 2021, due to excess net income. Exhibit A, pp. 15-18. MDHHS's testimony acknowledged that the initial denial was improper due to incorrectly budgeted child support and employment income. To correct its error, MDHHS reprocessed Petitioner's FAP eligibility again on ■, 2021; the result was again a denial based on excess net income. Exhibit B, pp. 23-27. The analysis will address the latter determination.

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 all variables and calculations in the disputed determination. Exhibit B, pp. 11-13. During the hearing, all relevant budget factors were discussed with Petitioner.

In determining Petitioner's FAP eligibility, MDHHS factored a group size of four.¹ Petitioner did not dispute the group size.

It was not disputed that Petitioner's three children each received child support. For FAP, MDHHS is to budget the average of child support payments received in the past three calendar months, unless changes are expected. BEM 505 (January 2021) p. 4. Petitioner's testimony did not claim any expected changes in support. Friend of the Court documents verified that Petitioner's children received the following support:

¹ See BEM 212 for policies on determining group size for FAP benefits.

██████████ in December 2020 and ██████████ in January 2021 and February 2021. Exhibit A, pp. 5-9. The average of the three months of support income before Petitioner's application month results in countable Support income of ██████████ (dropping cents). MDHHS calculated the same for Petitioner's unearned income.

Petitioner also received employment income. For FAP benefits, MDHHS generally counts gross wages.² 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 biweekly employment income is converted to a monthly amount by multiplying the average income by 2.15. *Id.*, p. 8. Income documents verified that Petitioner received ██████████ on March 10, 2021, and ██████████ on March 19, 2021. Exhibit B, pp. 14-22. Multiplying Petitioner's average biweekly gross employment income of \$██████████ by 2.15 results in a monthly employment income of ██████████ (dropping cents). MDHHS allows a 20% budget credit for timely reported employment income. Applying the credit results in countable employment income of \$██████████ (dropping cents): the same amount calculated by MDHHS.

Unearned and countable earned income is added together to determine the group's total countable income. This results in a total countable income of ██████████ for Petitioner's group.

MDHHS uses certain expenses to determine net income for FAP eligibility. 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, a capped excess shelter expense, 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's group had no SDV members; thus, no medical expenses may be factored. It was also not disputed that Petitioner had no dependent care or child support expenses.

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 non-shelter 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 running net income results in an adjusted gross income of ██████████

² 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.

MDHHS calculates shelter expenses by adding housing costs plus utility credits. MDHHS credited Petitioner with monthly housing expenses of \$[REDACTED]. Petitioner's testimony acknowledged the amount was correct. MDHHS credited Petitioner 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.³ Adding Petitioner's housing and utility credits results in a total shelter obligation of [REDACTED].

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 [REDACTED] (rounding up to nearest dollar).

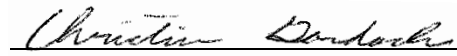
The FAP benefit group's net income is determined by subtracting the excess shelter expense from the group's adjusted gross income; doing so results in [REDACTED] in net income for Petitioner's group. The net income limit for a group size of four persons is \$2,184. RFT 250 (October 2020) p. 1. Petitioner's net income exceeds the net income limit; thus, MDHHS properly denied Petitioner's application for FAP benefits.

³ 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 denied Petitioner's FAP application dated [REDACTED] 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-Macomb-12-Hearings
M. Holden
D. Sweeney
BSC4
MOAHR

Petitioner – Via First-Class Mail:

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