



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: August 30, 2021
MOAHR Docket No.: 21-003582
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 August 26, 2021. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Samar Hamad, supervisor, and Tamika Dent, specialist.

ISSUES

The first issue is whether there is administrative hearing jurisdiction for Petitioner's complaints of MDHHS communication.

The second issue is whether MDHHS properly determined Petitioner's Food Assistance Program (FAP) benefits 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 an unspecified date, MDHHS terminated Petitioner's FAP eligibility after receiving returned mail sent to Petitioner.
2. As of July 2021, Petitioner received ██████████ in monthly Supplemental Security Income (SSI) benefits.
3. As of July 2021, Petitioner had no dependent care, child support, or reported out-of-pocket medical expenses.

4. As of July 2021, Petitioner reported to MDHHS a monthly rent of [REDACTED] which included all utilities.
5. On [REDACTED] 2021, Petitioner requested a hearing to dispute a termination of FAP benefits and to complain of MDHHS communication.
6. On July 27, 2021, MDHHS reinstated Petitioner's FAP case and determined that Petitioner was eligible to receive \$[REDACTED] per month in benefits beginning July 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 requested a hearing, in part, to complain of MDHHS's quality of communication. Exhibit A, pp. 3-5. Petitioner testified that she needs MDHHS to communicate with her in the future to ensure that her benefits are correctly issued.

A hearing can be granted for actions affecting benefits or services. Administrative hearing jurisdiction is limited to the following:

- Denial of an application or supplemental payment.
- Reduction in benefits or services.
- Suspension or termination of benefits or services.
- Restrictions under which benefits or services are provided.
- Delays in action beyond the standards of promptness.
- A denial of expedited service or the current level of benefits (FAP and CDC only)

BAM 600 (January 2020) p. 5.

A general complaint of MDHHS's past communication or a wanting of better communication in the future is not addressable through the administrative hearings process.¹ Concerning Petitioner's complaint of MDHHS communication, Petitioner's hearing request will be dismissed.

¹ If a lack of communication affects Petitioner's benefit eligibility, then an administrative remedy to address Petitioner's eligibility would be available.

Petitioner also requested a hearing to dispute a termination of FAP benefits.² Exhibit A, pp. 3-5. MDHHS testified that it closed Petitioner's FAP eligibility after receiving notice of undeliverable mail. It was not disputed that MDHHS later reinstated Petitioner's FAP eligibility. A Notice of Case Action dated July 27, 2021, stated that Petitioner was approved for █████ in monthly FAP benefits beginning July 2021. Exhibit A, pp. 6-10. Despite the reinstatement, Petitioner still disputed the amount of FAP benefits for which she was eligible. The determination of Petitioner's FAP eligibility was based on 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, and relevant monthly expenses. The notice dated July 27, 2021, included all relevant budget factors. During the hearing, all relevant budget factors were discussed with Petitioner.

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

MDHHS also factored █████ in monthly SSI benefits for Petitioner. For FAP, MDHHS is to count a gross SSI benefit. BEM 503 (January 2020) p. 34. Petitioner did not dispute the income factored by MDHHS.

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 additionally considers an uncapped excess shelter expense and the medical expenses above \$35 for each SDV group member(s). Countable expenses are subtracted from a client's monthly countable income. It was not disputed that Petitioner was disabled.

MDHHS factored \$0 child support, dependent care, and medical expenses for Petitioner. Petitioner acknowledged not having child support or dependent care expenses. Petitioner testified that she may have monthly medical expenses which exceed █████, though she acknowledged not previously reporting them to MDHHS. Clients must report changes in circumstance that potentially affect eligibility or benefit amount. BAM 105 (July 2020) p. 5. MDHHS cannot be faulted for not budgeting unreported medical expenses.

² Petitioner also initially testified she did not receive FAP supplements she was eligible to receive due to a temporary policy during the COVID-19 pandemic. After some discussion, Petitioner acknowledged that she received all expected FAP benefits.

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

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 Petitioner's group's income results in an adjusted gross income of \$[REDACTED]

MDHHS credited Petitioner with monthly housing expenses of [REDACTED]. Petitioner testified that her rent recently increased though she again acknowledged not reporting the increase to MDHHS. Petitioner also acknowledged that all utilities were included in her rent. MDHHS issued to Petitioner a standard credit of [REDACTED] for a telephone obligation. RFT 255 (October 2020) p. 1. Adding Petitioner's housing expenses 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).

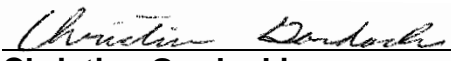
The FAP benefit group's net income is determined by subtracting the excess shelter expense from the group's adjusted gross income; doing so results in [REDACTED] net income for Petitioner's group. A chart is used to determine the proper FAP benefit issuance. RFT 260 (July 2021) p. 5. Based on Petitioner's group size and net income, Petitioner's proper FAP benefit issuance for July 2021 is [REDACTED]; the same issuance amount was calculated by MDHHS. Thus, MDHHS properly determined Petitioner's FAP eligibility.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that there is no administrative hearing jurisdiction for Petitioner's general complaint of communication from MDHHS. Concerning Petitioner's dispute over MDHHS's lack of communication, Petitioner's hearing request is **DISMISSED**.

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 █████ in FAP benefits beginning July 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-17-Hearings
M. Holden
D. Sweeney
BSC4
MOAHR

Petitioner – Via First-Class Mail:

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