



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: March 9, 2022
MOAHR Docket No.: 22-000200
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 line on March 3, 2022. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Kristina Tripp, hearing coordinator.

ISSUES

The first issue is whether MDHHS properly factored medical expenses in determining Petitioner's Food Assistance Program (FAP) eligibility.

The second issue is whether MDHHS properly factored unearned income in determining Petitioner's 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 November 2021, Petitioner was an ongoing FAP recipient with a benefit period certified through December 2021.
2. On November 18, 2021, Petitioner submitted a bank statement to MDHHS covering September 22, 2021, through October 20, 2021, listing 29 deposits totaling \$██████████.
3. On December 16, 2022, MDHHS mailed Petitioner a Verification Checklist (VCL) requesting proof of all income.

4. As of January 2022, Petitioner received \$[REDACTED] in Supplemental Security Income (SSI) and an average of \$[REDACTED] in monthly State Supplemental payments (SSP).
5. On January 3, 2018, Petitioner submitted to MDHHS 10 letters from persons who claimed to have given Petitioner money on a one-time basis.
6. As of January 7, 2022, Petitioner had not reported medical expenses to MDHHS.
7. On January 7, 2022, MDHHS determined Petitioner to be eligible for [REDACTED] in monthly FAP benefits beginning January 2022, based on \$[REDACTED] in unearned income, \$0 medical expenses, and net income of \$[REDACTED]
8. On [REDACTED] 2022, Petitioner requested a hearing disputing FAP eligibility: specifically, income and medical expenses. Petitioner also submitted to MDHHS a dental bill.

CONCLUSIONS OF LAW

The FAP (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 the FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-119b, and Mich Admin Code, R 400.3001-3011. FAP policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute the amount of her ongoing FAP eligibility. Exhibit A, pp. 3-4. A Notice of Case Action dated January 7, 2022, stated that Petitioner was eligible for [REDACTED] in FAP benefits beginning December 2021 based on net income of \$[REDACTED]. Exhibit A, pp. 38-42.¹

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 January 7, 2022, included a list of all budget factors. Exhibit A, p. 39. During the hearing, all relevant budget factors were discussed with Petitioner. The analysis will only address the two eligibility factors disputed by Petitioner: medical expenses and unearned income.²

¹ Though Petitioner was only eligible to receive [REDACTED] in FAP benefits, she will be receiving more. Since March 2020, due to a temporary policy during the COVID-19 pandemic, MDHHS has issued the maximum amount of FAP benefits (based on group size) to eligible clients. Because the policy is temporary, Petitioner may still seek an administrative hearing remedy for the calculated amount of her FAP benefits.

² Petitioner's testimony acknowledged that a benefit group size of one, \$0 child support expenses, \$0 dependent care expenses, and housing costs of \$[REDACTED] were correct. Also, MDHHS issued the maximum utility credit to Petitioner of \$[REDACTED].

A budget summary verified that MDHHS counted \$0 medical expenses for Petitioner. Exhibit A, p. 39. Petitioner contended that MDHHS should have counted some unspecified amount of more medical expenses.

MDHHS is to consider only the medical expenses of SDV persons in the eligible group or SDV persons disqualified for certain reasons. BEM 554 (January 2020) p. 8. MDHHS is to estimate an SDV person's medical expenses for the benefit period based on the following: verified allowable medical expenses, available information about the SDV person's medical condition and insurance, and changes reasonably expected to occur during the benefit period. *Id.*, pp. 8-9. MDHHS is to budget expenses whenever a change is reported. *Id.*, p. 1.

Petitioner submitted a ledger of medical expenses with her hearing request.³ Exhibit A, p. 5 Petitioner's testimony acknowledged that she did not report medical expenses to MDHHS before requesting a hearing. MDHHS cannot be faulted for not factoring medical expenses that were unreported by Petitioner as of the disputed determination date of January 3, 2022. Given the evidence, MDHHS properly calculated Petitioner's medical expenses as \$0.

Concerning unearned income, MDHHS factored \$[REDACTED] in determining Petitioner's FAP eligibility. Petitioner contended that her unearned income was much less and derived solely from SSI.

It was not disputed that Petitioner received \$[REDACTED] in SSI benefits in 2021 and SSP averaging \$[REDACTED] per month. Evidence was not taken as to Petitioner's SSI amount for 2022. However, assuming no other change in circumstance, Petitioner should receive a 5.9% increase in SSI to \$[REDACTED] beginning January 2022.⁴ With the continuing SSP, Petitioner presumably receives \$[REDACTED] from SSI and SSP. Subtracting \$[REDACTED] from the unearned income of \$[REDACTED] leaves \$[REDACTED] in disputed unearned income.

MDHHS testified that Petitioner received income from family and friends. MDHHS supported its testimony with Petitioner's bank statement covering September 22, 2021, through October 20, 2021. Exhibit A, pp. 11-16. During the statement period, Petitioner received 29 deposits which totaled \$[REDACTED]. Subtracting a \$[REDACTED] deposit for Petitioner's SSI leaves \$[REDACTED] in unaddressed deposits.

Petitioner testified that she sometimes receives cash deposits from family and friends for the purpose of living expenses, medical expenses, and loan repayments. Petitioner's testimony was partially consistent with 10 letters she submitted to MDHHS from various friends and family. Exhibit A, pp. 28-37. The documents provided dates and reasons for the following deposit amounts: [REDACTED]

³ The ledger listed a patient balance of \$[REDACTED]. Subsequent documentation submitted by Petitioner shows that the balance was reduced by an insurance payment of \$[REDACTED]. Exhibit 1, p. 3.

⁴ <https://www.ssa.gov/oact/cola/SSI.html>

\$ [REDACTED], and [REDACTED]. Every donation to Petitioner was stated to be a “one time deposit”.

The analysis need not question the probability of family and friends charitably supporting an individual with donations ([REDACTED]) that more than triple the persons monthly income (\$ [REDACTED] as of October 2021). The analysis also need not question that many of the deposits on Petitioner’s bank statement (e.g., \$ [REDACTED] [REDACTED]...) were for uneven dollar amounts and more typical with self-employment than of gift income.⁵ MDHHS accepted Petitioner’s documents as verification of charitable donations.

A donation to an individual by family or friends is the individual's unearned income. BEM 503 (January 2020) p. 11. MDHHS is to count the gross amount actually received, if the individual making the donation and the recipient are not members of any common eligibility determination group. *Id.*

For stopping income, MDHHS is to budget the final income expected to be received in the benefit month. BEM 505 (October 2017) p. 8. MDHHS is to remove stopped income from the budget for future months. *Id.*

The first problem with MDHHS factoring \$ [REDACTED] in donation income is that MDHHS could not explain the math behind its determination.⁶ A determination of income cannot be affirmed when MDHHS cannot explain how the determination was made.

Secondly, all of Petitioner’s documents stated that the donations were “one-time” gifts. Such language suggests that the charity received by Petitioner was temporary and not expected to continue. Perhaps MDHHS concluded that multiple “one-time” payments qualified as income; however, as discussed above, MDHHS provided no explanation for its math.

Given the evidence, MDHHS failed to establish that Petitioner’s unearned income was properly determined. As a remedy, Petitioner is entitled to a redetermination of FAP eligibility beginning January 2022. Unfortunately, no further guidance can be given on the reprocessing as the evidence did not establish what amount of unearned income should have been factored.⁷

⁵ Most of these actual deposit amounts also did not have a corresponding explanation in the letters submitted from Petitioner’s friends and family.

⁶ MDHHS testified that the determination was very complex and would require a continuance. MDHHS’s request for continuance was denied as MDHHS had ample time to prepare its evidence for the hearing.

⁷ Reprocessing could result in an outcome even more disputed by Petitioner (i.e., benefit ineligibility). Petitioner should be advised that she may still request a hearing to dispute the result of reprocessing.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly determined Petitioner's medical expenses to be \$0 in Petitioner's FAP eligibility beginning January 2022. Concerning medical expenses in Petitioner's FAP eligibility, the actions taken by MDHHS are **AFFIRMED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS failed to establish that Petitioner's unearned income was properly calculated in determining Petitioner's FAP eligibility. It is ordered that MDHHS commence the following actions within 10 days of the date of mailing of this decision:

(1) Reprocess Petitioner's FAP eligibility beginning January 2022 subject to the finding that MDHHS failed to establish that Petitioner's unearned income was correctly calculated to be \$[REDACTED] and

(2) Issue any notice and supplements, if any, in accordance with policy.

Concerning the unearned income in Petitioner's FAP eligibility, the actions taken by MDHHS are **REVERSED**.

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

Email Recipients:

MDHHS-Jackson-Hearings
M. Holden
D. Sweeney
BSC4
MOAHR

First-Class Mail Recipient:

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