



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], MI [REDACTED]

Date Mailed: August 25, 2022
MOAHR Docket No.: 22-003187
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 line on August 22, 2022. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Destiney Vann, specialist.

ISSUE

The issue is whether MDHHS properly denied 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. On [REDACTED], 2022, Petitioner applied for FAP benefits. Petitioner also reported being disabled and having various medical expenses.
2. On May 18, 2022, MDHHS determined Petitioner to be ineligible for FAP benefits in May 2022 due to excess gross income. MDHHS also determined Petitioner to be eligible for \$[REDACTED] in FAP benefits beginning June 2022. Both determinations factored \$0 medical expenses.
3. As of May 18, 2022, MDHHS did not request verification of medical expenses from Petitioner.
4. On July 25, 2022, Petitioner requested a hearing to dispute FAP eligibility beginning May 2022.

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, in part, to dispute a denial of FAP eligibility for May 2022. Exhibit A, pp. 4-5. A Notice of Case Action dated May 18, 2022, stated that Petitioner was ineligible due to excess gross income. Exhibit A, pp. 8-9.

To be eligible for FAP benefits, a non-categorically eligible, non-SDV FAP group must have income below the gross and net income limits. BEM 550 (January 2022) p. 1. A non-categorically SDV group must have income only below net income limits. *Id.* An SDV group is one with a senior (a person over the age of 60 years), disabled, or disabled veteran. *Id.*

It was not disputed that Petitioner was a disabled individual and the only member of her FAP group. As a disabled individual, Petitioner and/or her benefit group, are not subject to gross income limits, only net income limits. Thus, MDHHS improperly denied Petitioner's application due to Petitioner's group exceeding the gross income limit.¹ As a remedy, MDHHS is to redetermine Petitioner's FAP eligibility for May 2022.

Petitioner also requested a hearing to dispute her ongoing FAP eligibility beginning June 2022. Exhibit A, pp. 4-5. A Notice of Case Action dated May 18, 2022, stated that Petitioner was eligible for \$█ in FAP benefits beginning June 2022. Exhibit A, pp. 8-9.

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 May 18, 2022, included a list of all budget factors. Exhibit A, p. 9. MDHHS also presented a FAP budget listing all relevant factors and calculations. Exhibit A, pp. 19-21.

During the hearing, all relevant budget factors were discussed with Petitioner. The only benefit factor disputed by Petitioner was medical expenses.² MDHHS factored \$0 in medical expenses. Petitioner testified that her monthly medical expenses exceeded \$350.

MDHHS is to consider the medical expenses of SDV group members. BEM 554 (January 2022) p. 8. MDHHS is to estimate medical expenses incurred by the client

¹ Presumably, MDHHS failed to properly code Petitioner as a disabled individual.

² Petitioner's FAP budget factored \$1,860 in monthly Retirement, Survivor, Disability Insurance (RSDI), no dependent care or child support expenses, \$306 in monthly housing costs, and an obligation for heat and/or cooling.

during the benefit period. *Id.* Clients may choose to have one-time only expenses budgeted over the benefit period. *Id.*, p. 9.

Medical expenses must be verified at application. *Id.*, p. 10. MDHHS is to tell the client what verification is required, how to obtain it, and the due date. BAM 130 (January 2022) p. 3. MDHHS is to send a Verification Checklist to request verification. *Id.* MDHHS is to allow the client at least 10 calendar days (or other time limit specified in policy) to provide the verification that is requested. *Id.*, p. 7.

It was not disputed that Petitioner reported medical expenses to MDHHS on her application. It was also not disputed that MDHHS failed to request verification of medical expenses from Petitioner before determining Petitioner's FAP eligibility. Thus, MDHHS failed to properly process Petitioner's reporting of medical expenses.

After Petitioner requested a hearing, MDHHS properly started the verification process. MDHHS presented a Verification Checklist dated August 4, 2022, requesting proof of Petitioner's medical expenses. Exhibit A, pp. 23-25. During the hearing, MDHHS and Petitioner disagreed to which of Petitioner's medical expenses were verified. MDHHS eventually acknowledged that Petitioner verified the following monthly expenses: a \$[REDACTED] medical insurance premium and \$[REDACTED] for a dental insurance premium. Petitioner contended she also verified a \$1,500 annual deductible, though the verification she submitted to MDHHS did not appear to comply with all verification requirements. Exhibit B, pp. 1-2. Because the verification process of medical expenses is incomplete and followed Petitioner's hearing request, no administrative jurisdiction exists to further address the matter.³

Given the evidence, MDHHS failed to properly request Petitioner's medical expenses. As a remedy, MDHHS must redetermine Petitioner's FAP eligibility beginning May 2022 and ongoing months by first requesting verification of Petitioner's medical expenses.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly determined Petitioner's FAP eligibility beginning May 2022. It is ordered that MDHHS commence the following actions within 10 days of the date of mailing of this decision:

- (1) Re-register Petitioner's FAP application dated [REDACTED], 2022;
- (2) Redetermine Petitioner's FAP eligibility for May 2022 subject to the finding that Petitioner is a disabled individual and not subject to gross income limits;
- (3) Redetermine Petitioner's FAP eligibility beginning May 2022 subject to the finding that MDHHS failed to process Petitioner's reporting of medical expenses; and
- (4) Issue notice and benefit supplements, if any, in accordance with policy.

³ Petitioner is free to again request a hearing if she disputes her FAP eligibility following the verification process.

The actions taken by MDHHS are **REVERSED**.

CG/mp



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-Electronic Mail :

DHHS
MDHHS-Macomb-20-Hearings
D. Sweeney
M. Holden
MOAHR
BSC4

Via-First Class Mail :

Petitioner
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