



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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Date Mailed: November 10, 2022  
MOAHR Docket No.: 22-004598  
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 November 2, 2022. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Michelle Collins, hearings facilitator.

**ISSUES**

The first issue is whether MDHHS properly denied Petitioner's application for Food Assistance Program (FAP) benefits.

The second issue is whether MDHHS properly denied Petitioner's application for Child Development and Care (CDC) benefits.

**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 July 2022, Petitioner received the following gross weekly employment income: \$██████████ on July 2, \$██████████ on July 9, \$██████████ on July 16, \$██████████ on July 23, and \$██████████ on July 30.
2. In August 2022, Petitioner received the following gross weekly employment income: \$██████████ on August 6, \$██████████ on August 13, \$██████████ on August 20, and \$██████████ on August 27.
3. On ██████████, 2022, Petitioner applied for FAP and CDC benefits and reported ongoing employment income and a household with her minor child.

4. As of August 2022, neither Petitioner nor Child were over [REDACTED] years old, disabled, or disabled veterans.
5. On August 29, 2022, MDHHS denied Petitioner's application for FAP and CDC benefits due to excess gross income.
6. On September 13, 2022, Petitioner requested a hearing to dispute the denial of FAP and CDC benefits.

### **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 benefits. Exhibit A, pp. 3-5. A Notice of Case Action dated August 29, 2022, stated that Petitioner's application for FAP benefits was denied due to excess gross income. Exhibit A, pp. 9-11.

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 2017) p. 1. An SDV group is one with a senior (a person over the age of 60 years), disabled, or disabled veteran. *Id.* A traditionally categorically eligible FAP group is one whose members are all Family Independence Program (FIP) and/or State Disability Assistance (SDA) and/or Supplemental Security Income recipients (SSI).<sup>1</sup> BEM 213 (October 2021) p. 1. Applicants and recipients are eligible for enhanced authorization for Domestic Violence Prevention Services (DVPS); in such circumstances, categorical eligibility is established by DVPS if gross income is at or below 200% of the federal poverty level (FPL) and they meet the asset test. *Id.*

Petitioner's application dated [REDACTED], 2022, reported a household that included a minor child. The evidence did not indicate that Petitioner or her child were [REDACTED] years of age or older, disabled, or a disabled veteran. Thus, Petitioner was a member of a non-SDV group. As a FAP applicant, Petitioner should be eligible for DVPS; thus, she would meet gross income limits if her income is at or below 200% of the federal poverty level.

Petitioner reported a group that included a minor child. Thus, Petitioner's FAP group size is two.<sup>2</sup>

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<sup>1</sup> Petitioner's group is not traditionally categorically eligible because not all members received FIP, SDA, and/or SSI benefits.

<sup>2</sup> See BEM 212 for determining group size for FAP groups.

For FAP benefits, MDHHS counts gross employment income. BEM 501 (July 2022) p. 7. For non-child support income, MDHHS uses past income to project a FAP group's income. BEM 505 (November 2021) p. 5. For FAP, stable or fluctuating weekly employment income is converted to a monthly amount by multiplying the average income by 4.3. *Id.*, p. 8.

As of Petitioner's application month, Petitioner received ongoing employment income. MDHHS verified Petitioner's actual gross wage from TheWorkNumber documents. Exhibit A, pp. 13-20. The documents verified the following gross wages for Petitioner: \$██████ on July 9, \$██████ on July 16, \$██████ on July 23, \$██████ on July 30, \$██████ on August 6, \$██████ on August 13, \$██████ on August 20, and \$██████ on August 27.

Based on Petitioner's application date of ████████ 2022, a 30-day income period from July 29 through August 26, 2022, is proper.<sup>3</sup> Multiplying Petitioner's average weekly income from July 29 through August 26, 2022, by 4.3 results in a countable gross income of \$██████ (dropping cents).

The monthly gross income limit for a 2-person FAP group who is DVPS eligible is \$2,904.<sup>4</sup> RFT 250 (October 2021) p. 1. Petitioner's countable gross income of \$██████ exceeded the gross income limit. Thus, MDHHS properly denied Petitioner's application for FAP benefits.<sup>5</sup>

The CDC program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The CDC program is implemented by 45 CFR 98.1-99.33. MDHHS administers the CDC program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020. CDC policies are contained in the BAM, BEM, and RFT.

Petitioner also requested a hearing to dispute a denial of CDC benefits. Exhibit A, pp. 3-5. Petitioner applied for CDC benefits on ████████ 2022. A Notice of Case Action dated August 29, 2022, stated that CDC was denied due to gross income exceeding the CDC entry level. Exhibit A, pp. 9-11.

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<sup>3</sup> Presented FAP budgets indicated that MDHHS calculated a gross income for Petitioner of \$██████. Exhibit A, pp. 21-22. MDHHS testified that the budgets factored Petitioner's income from July 5 through August 3, 2022. Presumably, these budgets derived from Petitioner's application dated ████████ 2022, which was also denied due to excess income. Exhibit A, pp. 7-8.

<sup>4</sup> The Notice of Case Action dated August 29, 2022, stated that Petitioner exceeded the gross income limit of \$1,888. Exhibit A, pp. 9-11. A gross income limit of \$1,888 is 130% of the FPL and applicable when a group is not categorically eligible or eligible for DVPS. There was no evidence that Petitioner was not eligible for DVPS.

<sup>5</sup> MDHHS also would have properly denied Petitioner's application dated ████████ 2022 due to excess gross income.

There are five types of CDC eligibility groups for which an income determination is waived: those involved with Children's Protective Services, foster care, Family Independence Program recipients, migrant farmworkers, and homeless. BEM 703 (April 2022) pp. 13-14. If a client's CDC group is not eligible for an income waiver, then the group may be eligible for CDC benefits, subject to a determination of income. *Id.*, p. 16. There was no evidence that Petitioner's group qualified for a waiver of income-eligibility. Thus, Petitioner is left to qualify for CDC benefits based on an income determination.

To be eligible for the CDC program at application, a program group's countable gross monthly income must not exceed the maximum monthly gross income limit by family size associated with the program entry limit. *Id.* Income eligible families may have a co-payment amount called a family contribution. *Id.*

For CDC benefits, MDHHS generally counts gross wages.<sup>6</sup> BEM 501 (July 2022) p. 7. For non-child support income, MDHHS uses past income to project a CDC group's income. BEM 505 (November 2021) 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.

In determining Petitioner's CDC eligibility, MDHHS properly factored a 30-day income period from July 29 through August 26, 2022. Multiplying Petitioner's average weekly income from July 29 through August 26, 2022, by 4.3 results in a countable gross income of \$ [REDACTED] (dropping cents).

It was not disputed that Petitioner's CDC group size was two.<sup>7</sup> For a group size of two persons, the income level for entry into the CDC program is \$3,052. RFT 270 (July 2022) p. 1.

The evidence established that Petitioner's income exceeds the income limit for entry level into the CDC program. Thus, MDHHS properly denied Petitioner's application for CDC benefits.

### **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 application requesting FAP and MA benefits dated [REDACTED] 2022.

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<sup>6</sup> 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.

<sup>7</sup> See BEM 205 for determining CDC group composition.

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

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-Wayne-55-Hearings  
L. Brewer-Walraven  
D. Sweeney  
M. Holden  
MOAHR  
BSC4

**Via-First Class Mail :**

**Petitioner**

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