



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: December 27, 2022
MOAHR Docket No.: 22-005570
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 December 21, 2022. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Priya Johnson, supervisor.

ISSUE

The issue is whether MDHHS properly terminated 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 September 1, 2022, MDHHS mailed Petitioner a Mid-Certification Contact Notice (MCCN) for redetermining FAP benefits beginning ██████████ 2022.
2. On September 27, 2022, Petitioner timely returned the MCCN to MDHHS and reported no other household members and \$████████ in monthly Retirement, Survivors, Disability Insurance (RSDI).
3. As of September 2022, Petitioner had \$200 in monthly medical expenses and no child support or dependent care expenses.
4. As of September 2022, Petitioner was responsible for \$700 in housing costs and a telephone expense.

5. On November 21, 2022, Petitioner requested a hearing to dispute the failure by MDHHS to process ongoing FAP eligibility.
6. On [REDACTED] 2022, MDHHS determined Petitioner to be ineligible for FAP benefits beginning [REDACTED] 2022 due to excess net income.

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 an expiration of FAP benefits. Exhibit A, pp. 3-5. MDHHS acknowledged that Petitioner timely submitted a MCCN which was not timely processed; MDHHS's failure to timely process caused Petitioner's FAP benefits to expire beginning [REDACTED] 2022. After Petitioner requested a hearing, MDHHS corrected its failure and processed Petitioner's MCCN. A Notice of Case Action dated [REDACTED] 2022, stated that Petitioner was ineligible for FAP benefits beginning [REDACTED] 2022 due to excess net income. Exhibit A, pp. 17-21.

For FAP benefits, net income is based on a client's group size, countable monthly income, and relevant monthly expenses. BEM 556 outlines the factors and calculations required to determine net income. MDHHS presented a budget verifying how it calculated Petitioner's net income.¹ Exhibit A, pp. 14-15. During the hearing, all relevant budget factors were discussed with Petitioner.

In determining Petitioner's FAP eligibility, MDHHS factored a group size of one person. Petitioner did not dispute the group size.²

MDHHS factored \$[REDACTED] in unearned income for Petitioner. Petitioner's testimony acknowledged receipt of \$[REDACTED] in monthly RSDI.³ For FAP benefits, gross RSDI is countable. BEM 503 (April 2019) p. 29. The evidence established that MDHHS properly counted Petitioner's unearned income as \$[REDACTED]

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-

¹ MDHHS also presented a FAP budget from October 2022 when Petitioner was eligible to receive \$[REDACTED] in monthly FAP benefits. Exhibit A, pp. 9-10. MDHHS emphasized that Petitioner's income was budgeted as \$0 though Petitioner was receiving unearned income since June 2022.

² See BEM 212 for policies on determining group size for FAP benefits.

³ MDHHS also presented documentation verifying Petitioner's monthly income. Exhibit A, pp. 11-13.

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). It was not disputed that Petitioner was disabled and/or aged.

MDHHS factored \$200 in monthly medical expenses for Petitioner. Exhibit A, p. 16. MDHHS also factored no dependent care or child support expenses. Petitioner's testimony acknowledged her non-shelter expenses were correctly factored by MDHHS. Applying a \$35 copayment to Petitioner's medical expenses results in \$165 in countable non-shelter expenses.

Petitioner's FAP benefit group size justifies a standard deduction of \$193 (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 (\$193) and countable non-shelter expenses (\$165) from Petitioner's countable income (\$██████████) results in an adjusted gross income of \$██████████.

MDHHS credited Petitioner with monthly housing expenses of \$700; Petitioner did not allege additional housing expenses. MDHHS credited Petitioner with a standard telephone deduction of \$30 (see RFT 255). Petitioner did not allege having additional utility obligations. Adding Petitioner's housing expenses and utility credits results in a total shelter obligation (housing + utilities) of \$730.

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 \$0.

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 \$██████████ in net income for Petitioner's group. The net income limit for Petitioner's group size is \$1,133. RFT 250 (October 2021) p. 1. Because Petitioner's group's net income exceeds the net income limit, MDHHS properly terminated Petitioner's FAP eligibility beginning ██████████ 2022 due to excess net income.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly terminated Petitioner's FAP eligibility beginning ██████████ 2022.

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-Oakland-6303-Hearings
D. Sweeney
M. Holden
MOAHR
BSC4

Via-First Class Mail :

Petitioner

[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]