



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
SUZANNE SONNEBORN
EXECUTIVE DIRECTOR

MARLON I. BROWN, DPA
ACTING DIRECTOR

[REDACTED], MI [REDACTED]

Date Mailed: November 16, 2023
MOAHR Docket No.: 23-006677
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 November 8, 2023. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Jacob Frankmann, supervisor.

ISSUES

The first issue is whether MDHHS properly terminated Petitioner's Food Assistance Program (FAP) eligibility.

The second issue is whether MDHHS properly determined Petitioner's FAP eligibility for August and September 2023.

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 August 2023, Petitioner was an ongoing recipient of \$56 in monthly FAP benefits with a benefit period certified through the end of the month.
2. As of August 2023, Petitioner resided in a household with two minor children. Neither Petitioner nor her two children were senior, disabled, or disabled veterans.

3. As of August 2023, Petitioner received ongoing unemployment benefits of \$1,556 per month. Petitioner also did not report to MDHHS a stoppage in ongoing monthly gross wages of \$1,652.
4. As of August 2023, Petitioner had monthly housing costs of \$1,475 and a responsibility for a heating and/or cooling.
5. As of August 2023, Petitioner had no dependent care or child support expenses.
6. On August 1, 2023, MDHHS mailed Petitioner a Semi-Annual Contact Report.
7. On September 10, 2023, MDHHS sent Petitioner a Notice of Food Assistance (FAP) Closure form warning that Petitioner failed to return the SACR, and it must be returned by the end of September 2023 or FAP benefits would end.
8. On October 4, 2023, Petitioner requested a hearing to dispute the termination of FAP benefits.
9. As of October 4, 2023, Petitioner had not returned a SACR to MDHHS.

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 a termination of FAP benefits. Exhibit A, pp. 3-5. A Notice of Food Assistance (FAP) Closure dated September 10, 2023, stated that Petitioner's FAP eligibility would end October 2023 due to Petitioner's failure to return a SACR.

For all programs, a complete redetermination is required at least every 12 months. BAM 210 (October 2022) p. 3. Bridges, the MDHHS database, automatically sends an SACR at the beginning of the fifth month for cases with countable earnings and assigned a 12-month benefit period. *Id.*, p. 11. If MDHHS does not receive a completed SACR by the 10th day of the sixth month of the benefit period, a Notice of Food Assistance (FAP) Closure is sent; this reminder notice explains that the client must return the SACR and all required verifications by the last day of the month, or the case will close. *Id.*, p. 14. If the SACR is not received by the last working day of the redetermination month, MDHHS is to close the case without further notice to the client. *Id.*

MDHHS presented a SACR dated August 1, 2023, stating that Petitioner was to return the form and required proofs by August 21, 2023. Exhibit A, pp. 6-10. MDHHS credibly

testified that Petitioner did not return the SACR by the due date of August 21, 2023. MDHHS also presented a Notice of Food Assistance (FAP) Closure form dated September 10, 2023, warning Petitioner that FAP benefits would end at the end of the month if the SACR and verifications were not returned. Exhibit A, pp. 11-12.

Petitioner's testimony acknowledged not returning the SACR, though she claimed she did not receive one. The proper mailing and addressing of a letter creates a presumption of receipt. That presumption may be rebutted by evidence. *Stacey v Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976). The SACR presented by MDHHS included Petitioner's proper mailing address. Exhibit A, p. 6. Petitioner presented no evidence other than her uncorroborated testimony that she did not receive the SACR. The evidence established an unrebutted presumption that Petitioner received the SACR.

The evidence established that Petitioner failed to return a SACR to MDHHS before the end of September 2023. Thus, MDHHS properly terminated Petitioner's FAP eligibility beginning October 2023.¹

Petitioner also stated that she requested a hearing to dispute "not receive my benefits in more than two months". Exhibit A, pp. 3-5. Petitioner's statement was curious because Petitioner received \$56 in FAP benefits in August and September 2023.² Presumably, Petitioner meant that she had not received the benefits in July and August that she previously received. It was not disputed that Petitioner received \$522 in monthly FAP benefits in June and July 2023. Despite Petitioner's vague hearing request, the analysis will proceed to determine if MDHHS properly determined Petitioner's FAP eligibility in August and September 2023.

FAP benefit amounts are determined by a client's net income. BEM 556 outlines the factors and calculations required to determine a client's net income. FAP net income is based on group size, countable monthly income, and relevant monthly expenses. During the hearing, all relevant budget factors were discussed with Petitioner.

Petitioner testified she resided in a household including two minor children MDHHS accordingly factored a benefit group of three persons.³

For August and September 2023, MDHHS factored \$1,556 in unemployment benefits and \$1,652 in wages. Petitioner's testimony acknowledged receiving UCB during the disputed benefit months, but she testified that her employment stopped in June 2023. Petitioner essentially contended that MDHHS incorrectly included employment income in determining Petitioner's FAP eligibility.

¹ There is no need to advise Petitioner to reapply because she did so on [REDACTED] 2023.

² The evidence indicated Petitioner received more than \$56 in FAP benefits in August 2023. However, the evidence also suggested the benefits exceeding \$56 were unrelated to Petitioner's ongoing eligibility of \$56 in monthly FAP benefits.

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

MDHHS testified it began budgeting unemployment benefit income after discovering it through its own reports. MDHHS also testified it left ongoing employment income untouched because Petitioner never reported a stoppage. Petitioner testified she did report a stoppage in wages after receiving a letter from her employer stating she does not work for approximately two months during June to August 2023. Petitioner testified she forwarded the letter to MDHHS shortly after receiving it in late June 2023. MDHHS denied receiving the letter. Petitioner's testimony was not corroborated by a list of Petitioner's submissions to MDHHS which did not include any submissions from Petitioner in June, July, or August 2023. Exhibit A, p. 13.

Changes which result in an increase in the household's benefits must be effective no later than the first allotment issued 10 days after the date the change was reported, provided any necessary verification was returned by the due date. BAM 220 (July 2023) p. 7. The evidence established that Petitioner did not report a stoppage in wages to MDHHS during August or September 2023. Thus, MDHHS properly factored \$1,652 in wages for Petitioner in determining FAP eligibility for August and September 2023.

MDHHS applies a 20% credit for timely reported wages. Applying the credit to Petitioner's wages results in countable wages of \$1,321 (dropping cents). Adding Petitioner's unemployment income of \$1,556 to countable wages results in a total countable income of \$ [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: shelter expenses (housing and utilities) up to a capped amount, dependent care costs, and court-ordered child support and arrearages paid to non-household members (see *Id.*). An SDV group that has a verified one-time or ongoing medical expense(s) of more than \$35 for an SDV person(s) will receive the standard medical deduction (SMD) of \$165. BEM 554 (October 2022) p. 9. If the group has actual medical expenses which are more than the SMD, the group has the option to verify their actual expenses instead of receiving the SMD. *Id.*

Petitioner's FAP benefit group had no SDV members; thus, medical expenses are not countable. Petitioner alleged no dependent care or child support expenses. Petitioner's non-shelter expenses are \$0.

Petitioner's FAP benefit group size justifies a standard deduction of \$198 (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 (\$0) from the group's countable income (\$2,877) results in an adjusted gross income of \$ [REDACTED]

MDHHS credited Petitioner with monthly housing expenses of \$1,475. Petitioner did not allege additional housing expenses. MDHHS also credited Petitioner with a standard heating/utility (h/u) credit of \$624. RFT 255 (October 2023) p. 1. Generally, the h/u credit covers all utility expenses and is the maximum credit available.⁴ Adding Petitioner's housing expenses and utility credits results in total shelter expenses of \$2,099.


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 expenses are \$757. However, because Petitioner's group has no SDV members, the excess shelter expense is capped at \$624. RFT 255 (October 2022) p. 1.

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 \$2,060 in net income for Petitioner's group. A chart is used to determine the proper FAP benefit issuance.⁵ RFT 260 (October 2022) pp. 1-5. Based on Petitioner's group size and net income, Petitioner's proper FAP issuance for August and September 2023 is \$56: the same amount calculated by MDHHS. Thus, MDHHS properly determined Petitioner's FAP eligibility for August and September 2023.

DECISION AND ORDER

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 \$56 in FAP benefits in August and September 2023. MDHHS also properly terminated Petitioner's FAP eligibility beginning October 2023. The actions taken by MDHHS are **AFFIRMED**.

CG/nr



Christian Gardocki

Administrative Law Judge

⁴ MDHHS allows additional credits for "actual utility expenses". Such expenses are only allowed for utility installation charges, water well installation and maintenance, and septic installation and maintenance. BEM 554 (October 2019) p. 15. There was no evidence of applicable exceptions.

⁵ FAP eligibility can also be calculated by multiplying the net income by 30% and subtracting the amount from the maximum FAP issuance for the group.

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

Linda Gooden
Oakland County Southfield District III
25620 W. 8 Mile Rd
Southfield, MI 48033
**MDHHS-Oakland-6303-
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Interested Parties

Oakland 3 County DHHS
BSC4
M. Holden
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B. Cabanaw
MOAHR

Via-First Class Mail :

Petitioner

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