



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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[REDACTED] MI [REDACTED]

Date Mailed: February 15, 2023
MOAHR Docket No.: 23-000280
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 February 13, 2023. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Georgette Ajulufoh, specialist.

ISSUE

The issue is whether MDHHS properly determined 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. As of January 2023, Petitioner was an ongoing recipient of FAP benefits.
2. As of January 2023, Petitioner had no child support, dependent care, or medical expenses.
3. As of January 2023, Petitioner reported to MDHHS a responsibility for heating/cooling expenses.
4. On an unspecified date before January 12, 2023, Petitioner reported to MDHHS monthly housing expenses of \$322.
5. On January 12, 2023, MDHHS determined Petitioner to be eligible for \$23 in monthly FAP benefits beginning January 2023.

6. On January 18, 2023, Petitioner requested a hearing to dispute FAP eligibility. Petitioner additionally reported monthly housing costs of \$376.

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 FAP eligibility. Exhibit A, pp. 4-5. A Notice of Case Action dated January 12, 2023, stated that Petitioner was eligible to receive \$23 in FAP benefits beginning January 2023. Exhibit A, pp. 25-29.

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 factors include group size, countable monthly income, and relevant monthly expenses. The notice dated January 12, 2023, included a summary of all relevant budget factors. Exhibit A, p. 16. During the hearing, the budget factors were discussed with Petitioner.

In determining Petitioner's FAP eligibility, MDHHS factored a benefit group including only Petitioner.¹ Petitioner did not dispute the benefit group size of one.

MDHHS calculated an unearned income of \$[REDACTED] for Petitioner's group. MDHHS presented documentation from the Security Administration listing gross monthly RSDI of \$[REDACTED] for Petitioner. Exhibit A, pp. 7-9. Petitioner's testimony acknowledged receipt of \$[REDACTED] in gross monthly RSDI. For FAP benefits, gross RSDI is countable. BEM 503 (April 2019) p. 29. For purposes of FAP eligibility, Petitioner's unearned income is \$[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-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).

Petitioner's testimony acknowledged having no child support, dependent care, or medical expenses. Thus, Petitioner's non-shelter expenses total \$0.

¹ See BEM 212 for policies on determining group size for FAP benefits.

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 (\$0) from the group's countable income (\$██████) results in an adjusted gross income of \$██████.

MDHHS credited Petitioner with monthly housing expenses of \$322. Petitioner responded that his rent increased to \$376 in January 2023. Whether MDHHS properly calculated Petitioner's housing expenses depends on when Petitioner reported the increase.

Petitioner testified that he reported the increase to MDHHS before requesting a hearing on January 18, 2023. Petitioner also testified he could not recall the date. Petitioner presented no corroborating evidence of reporting a rent increase before requesting a hearing.

MDHHS testimony responded that Petitioner's hearing request was Petitioner's first reporting of a rent increase. MDHHS also testified that it mailed Petitioner a request for verification of rent amount the same date that Petitioner requested a hearing and that Petitioner returned proof of the rent increase on February 1, 2023. MDHHS further testified that it had no record that Petitioner reported an increase in rent until he stated it in his written hearing request.

The evidence established that Petitioner did not report a rent of \$376 until requesting a hearing. Thus, MDHHS cannot be faulted for factoring Petitioner's previously reported housing expenses of \$322 in determining Petitioner's FAP eligibility six days earlier. It is found that MDHHS properly factored \$322 as Petitioner's housing expenses.²

MDHHS credited Petitioner with a standard heating/utility (h/u) credit of \$620. RFT 255 (October 2021) p. 1. Generally, the h/u credit covers all utility expenses and is the maximum credit available.³ Adding Petitioner's housing expenses and utility credits results in total shelter expenses of \$942.

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 \$263.

² As of the hearing date, MDHHS has still not updated Petitioner's FAP eligibility to reflect housing expenses of \$376. For FAP benefits, MDHHS must act on changes reported by clients within 10 days. BAM 220 (October 2022) p. 7. As 12 days have elapsed since Petitioner verified housing expenses, MDHHS was advised to update Petitioner's FAP eligibility as soon as possible.

³ 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.

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 \$1,095 in net income for Petitioner's group. A chart is used to determine the proper FAP benefit issuance.⁴ RFT 260 (October 2022) pp. 1-5. Based on Petitioner's group size and net income, Petitioner's proper FAP issuance for January 2023 is \$23; the same amount was calculated by MDHHS. Thus, MDHHS properly determined Petitioner's FAP eligibility.

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 \$23 in FAP benefits beginning January 2023. 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

⁴ FAP eligibility can also be calculated by multiplying the group's net income by 30% and subtracting the product from the maximum FAP issuance amount for the group.

Via-Electronic Mail :

DHHS
MDHHS-Oakland-DistrictII-Hearings
D. Sweeney
M. Holden
MOAHR
BSC4

Via-First Class Mail :

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