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GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

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DIRECTOR

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Date Mailed: March 7, 2023  
MOAHR Docket No.: 23-000649  
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 March 2, 2023. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Dania Ajami, specialist. Manal Alawieh of MDHHS participated as an Arabic-English translator.

**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 as a member of a four-person benefit group with no senior, disabled, or disabled veteran (SDV) members.
2. As of January 2023, Petitioner last reported to MDHHS receiving gross biweekly income of \$██████████ and \$██████████ in October 2022.
3. As of January 2023, Petitioner had no child support or dependent care expenses.
4. As of January 2023, Petitioner reported to MDHHS a responsibility for heating/cooling and \$600 in monthly housing expenses.
5. On January 31, 2023, Petitioner requested a hearing to dispute FAP eligibility.

6. On February 13, 2023, MDHHS determined Petitioner to be eligible for \$740 in monthly FAP benefits beginning March 2023.

### **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 the amount of FAP benefits received. Exhibit A, pp. 3-4. A Notice of Case Action dated February 13, 2023, stated that Petitioner's FAP eligibility would increase to \$740 per month beginning March 2023.<sup>1</sup> Exhibit A, p. 9.

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. MDHHS presented budget documents listing all relevant factors and calculations. Exhibit A, pp. 10-12. During the hearing, all relevant budget factors were discussed with Petitioner.

In determining Petitioner's FAP eligibility, MDHHS factored a benefit group including four persons.<sup>2</sup> Petitioner did not dispute the benefit group size.

For FAP benefits, MDHHS generally counts gross wages.<sup>3</sup> BEM 501 (July 2021) p. 7. For non-child support income, MDHHS is to use past income to prospect income for the future unless changes are expected. BEM 505 (November 2021) p. 6. MDHHS is to use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month. *Id.* Stable or fluctuating biweekly employment income is converted to a monthly amount by multiplying the average income by 2.15. *Id.*, p. 8.

MDHHS calculated \$[REDACTED] in monthly employment income for Petitioner; Petitioner disputed the amount. MDHHS calculated Petitioner's income from biweekly gross income amounts of \$[REDACTED] and \$[REDACTED] received by Petitioner in October 2022.<sup>4</sup> Exhibit A, pp. 11-12. Petitioner acknowledged receiving the income amounts and not

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<sup>1</sup> The notice was issued after Petitioner requested a hearing thereby suggesting that Petitioner disputed a different MDHHS action. However, Petitioner testified she sought a hearing to dispute FAP eligibility of \$740 per month.

<sup>2</sup> See BEM 212 for policies on determining group size for FAP benefits.

<sup>3</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>4</sup> Income documents seemingly verifying the income amounts were presented; however, pay dates could not be seen on the documents. Exhibit A, pp. 6-7.

reporting a change in income since October 2022.<sup>5</sup> Multiplying Petitioner's average biweekly gross income by 2.15 results in monthly employment income totaling \$ [REDACTED] (rounding to nearest dollar). Applying a 20% budget credit results in a countable employment income of \$ [REDACTED] (dropping cents).

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).

MDHHS budgeted \$0 expenses for child support, dependent care, and medical. Petitioner's testimony acknowledged that her group had no child support or dependent care expenses. Because Petitioner's group had no SDV members, medical expenses were not countable.

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 (\$ [REDACTED]) results in an adjusted gross income of \$ [REDACTED].

MDHHS budgeted housing expenses of \$600 for Petitioner; Petitioner did not dispute the housing expense amount. MDHHS credited Petitioner with a standard heating/utility (h/u) credit of \$624. RFT 255 (October 2022) p. 1. Generally, the h/u credit covers all utility expenses and is the maximum credit available.<sup>6</sup> Adding Petitioner's housing expenses and utility credits results in total shelter expenses of \$1,224.

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 expense credit is \$584.

The FAP benefit group's net income is determined by subtracting the excess shelter expense credit from the group's adjusted gross income; doing so results in \$ [REDACTED] in net income for Petitioner's group. A chart is used to determine the proper FAP benefit

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<sup>5</sup> Petitioner was advised during the hearing to submit updated pay documents to MDHHS if income has changed.

<sup>6</sup> 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.

issuance.<sup>7</sup> RFT 260 (October 2022) pp. 1-5. Based on Petitioner's group size and net income, Petitioner's proper FAP issuance for March 2023 is \$740: the same amount 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 \$740 in FAP benefits beginning March 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

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<sup>7</sup> 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.

**Via-Electronic Mail :**

**DHHS**  
MDHHS-Wayne-55-Hearings  
D. Sweeney  
M. Holden  
MOAHR  
BSC4

**Via-First Class Mail :**

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