



GRETCHEN WHITMER  
GOVERNOR

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

MARLON I. BROWN, DPA  
ACTING DIRECTOR

[REDACTED]  
[REDACTED]  
[REDACTED]

Date Mailed: [REDACTED]  
MOAHR Docket No.: 23-003827  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Danielle Nuccio**

### **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 telephone hearing was held on August 2, 2023. The Petitioner appeared and represented herself. The Department of Health and Human Services (MDHHS) was represented by Catherine Millais, Eligibility Specialist, and Sara Hoek, Family Independence Manager.

### **ISSUE**

Did MDHHS properly calculate Petitioner's household budget to determine her monthly Food Assistance Program (FAP) benefit amount?

### **FINDINGS OF FACT**

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Petitioner was an ongoing recipient of FAP benefits for a group size of two, consisting of her minor daughter and herself. Petitioner's household does not contain a Senior, Disabled, or Disabled Veteran (S/D/V) group member.
2. On [REDACTED] [REDACTED] 2023, Petitioner submitted a renewal of FAP benefits. Petitioner reported that she works at [REDACTED] [REDACTED] [REDACTED] [REDACTED] (Employer) (Exhibit A, pp. 22-24).
3. On June 20, 2023, MDHHS issued a Notice of Case Action to Petitioner informing her that she was eligible for FAP benefits in the amount of \$ [REDACTED] monthly for a group size of two, effective June 1, 2023 (Exhibit A, pp. 14-19).

4. On June 30, 2023, MDHHS received a timely submitted hearing request from Petitioner disputing the monthly amount of FAP benefits that she is eligible to receive (Exhibit A, pp. 4-5).

### **CONCLUSIONS OF LAW**

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

The Food Assistance Program [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 FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing regarding the \$ [REDACTED] monthly FAP benefit amount that she was approved to receive.

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 group size, countable monthly income, and relevant monthly expenses. MDHHS presented budget documents listing the calculations to determine Petitioner's FAP eligibility (see Exhibit A, pp. 8-9). During the hearing, all relevant budget factors were discussed with Petitioner.

MDHHS determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. In prospecting income, MDHHS is required to use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month, discarding any pay if it is unusual and does not reflect the normal, expected pay amounts. BEM 505 (October 2022) pp. 5-6. A standard monthly amount must be determined for each income source used in the budget, which is determined by multiplying average biweekly pay by 2.15 and average weekly pay by 4.3. BEM 505, pp. 8-9.

In this case, MDHHS testified that they relied upon paystubs submitted by Petitioner from June 9, 2023 and June 23, 2023. MDHHS testified that the gross pay used was \$ [REDACTED] and \$ [REDACTED] respectively. Upon review, on June 9, 2023, Petitioner's gross income was \$ [REDACTED] rather than the amount that MDHHS testified that they relied upon (see Exhibit A, p. 11). MDHHS then converts this income to a standard monthly amount.

Upon review, when averaging the two paychecks that Petitioner received in June 2023, then converted to a standard monthly amount for biweekly pay by multiplying the average pay by 2.15 results in:

$$\begin{aligned} & \blacksquare + \blacksquare = \blacksquare \\ & \text{Divided by 2} = \blacksquare \\ & \blacksquare \text{ Multiplied by 2.15} = \blacksquare \end{aligned}$$

MDHHS calculated \$ $\blacksquare$  in earned income when using the incorrect amount from June 9, 2023. Since this lower amount ultimately benefits Petitioner, this will be considered a harmless error.

Petitioner's FAP benefit group size of two justifies a standard deduction of \$ $\blacksquare$  RFT 255 (February 2023), p. 1. MDHHS properly included the standard deduction in Petitioner's household budget. MDHHS will reduce the gross countable earned income by 20 percent, known as the earned income deduction. BEM 550 (April 2023), p. 1. MDHHS correctly determined Petitioner is entitled to an earned income deduction of \$537.00. Petitioner testified that she does not pay any dependent care or child support expenses. Therefore, MDHHS properly calculated the deductions in Petitioner's budget.

MDHHS testified that it calculated Petitioner's housing expenses from her report of \$ $\blacksquare$  in rent and responsibility for paying utilities.<sup>1</sup> Petitioner was credited with a standard heating/utility (h/u) credit of \$ $\blacksquare$  RFT 255, p. 1. Generally, the h/u credit covers all utility expenses and is the maximum credit available. MDHHS only credits FAP benefit groups with an "excess shelter" expense. The excess shelter expense is calculated by subtracting half of the adjusted gross income from the total shelter obligation. In this case, that results in \$ $\blacksquare$  as Petitioner's excess shelter deduction amount.

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 \$ $\blacksquare$  in net income for Petitioner's group. A chart is used to determine the proper FAP benefit issuance. RFT 260 (October 2022) p. 26. Based on Petitioner's group size and net income, Petitioner's proper FAP benefit issuance is \$ $\blacksquare$  the same issuance amount that was calculated by MDHHS. Therefore, MDHHS properly determined Petitioner's FAP eligibility.

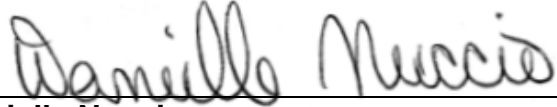
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the MDHHS acted in accordance with Department policy when it calculated Petitioner's FAP budget and determined Petitioner to be eligible for \$ $\blacksquare$  in monthly FAP benefits.

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<sup>1</sup> Petitioner testified that her rent amount has increased to \$500.00 monthly. Petitioner did not report this change at the time of her renewal. MDHHS testified that Petitioner's housing expenses have since been updated.

**DECISION AND ORDER**

Accordingly, MDHHS' decision is **AFFIRMED**.



DN/dm

**Danielle Nuccio**  
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**  
Kimberly Kornoelje  
Kent County DHHS  
**MDHHS-Kent-**  
**Hearings@michigan.gov**

**HoldenM**

**SweeneyD1**

**BSC3HearingDecisions**

**Via-First Class Mail :**

**MOAHR**  
**Petitioner**

[REDACTED]  
[REDACTED]  
[REDACTED]