



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: September 26, 2023
MOAHR Docket No.: 23-005216
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 September 21, 2023. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Jasmine Alexander, supervisor.

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. On [REDACTED] [REDACTED] 2023, Petitioner applied for FAP benefits and reported a household with no other persons.
2. As of June 2023, Petitioner received \$[REDACTED] in gross monthly Supplemental Security Income (SSI), \$14 in gross Supplemental Security Income Payments (SSP), and \$509 in Retirement Survivors Disability Insurance (RSDI).
3. As of June 2023, Petitioner received \$[REDACTED] in monthly child support.
4. As of June 2023, Petitioner had no child support, medical, or dependent care expenses.

5. As of June 2023, Petitioner had a responsibility for heating/cooling expenses and monthly housing expenses of \$232.
6. On June 29, 2023, MDHHS determined Petitioner to be eligible for \$55 in FAP benefits in June 2023 and \$152 beginning July 2023.
7. On July 18, 2023, Petitioner requested a hearing to dispute the amount of FAP benefits for June and July 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. MA 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 she received from MDHHS in June and July 2023. Exhibit A, pp. 4-8. A Notice of Case Action dated June 29, 2023, stated that Petitioner was eligible to receive \$55 in June 2023 and \$152 in July 2023. Exhibit A, pp. 13-14.

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. MDHHS presented budget documents listing all relevant FAP factors and calculations. Exhibit A, pp. 44-46. The notice dated June 29, 2023, also included a summary of all budget factors for June 2023. Exhibit A, p. 14. During the hearing, all relevant budget factors were discussed with Petitioner.

Petitioner applied for FAP benefits in June 2023 and reported a household including only herself. As reported by Petitioner, MDHHS factored a FAP benefit group of one person.¹

It was not disputed that Petitioner received \$[REDACTED] in gross monthly RSDI benefits, \$[REDACTED] in averaged SSP, and \$[REDACTED] in gross monthly SSI benefits. Petitioner additionally received \$102 in monthly child support.² Exhibit A, p. 59. For FAP benefits, gross RSDI is countable. BEM 503 (January 2023) p. 29. For FAP, MDHHS is to count a gross SSI benefit. *Id.*, p. 34. For FAP, MDHHS is to count a gross SSP benefit. *Id.* Gross child support is countable. *Id.*, p. 6. Petitioner's total unearned income totaled \$[REDACTED]

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

² Child support payments, including arrearage payments, received by a custodial party for an adult child or a child no longer living in the home, are considered the other unearned income of the payee if the money is not forwarded to the adult child or child. BEM 503 (January 2023) p. 6.

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).³

It was not disputed that Petitioner was aged and/or disabled. It was also not disputed that Petitioner had no child support, dependent care, or medical expenses. Petitioner's non-shelter expenses were properly determined to be \$0.

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 budgeted housing expenses of \$232 for Petitioner; Petitioner did not allege having higher expenses.⁴ 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.⁵ Adding Petitioner's housing expenses and utility credits results in total shelter expenses of \$856.

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 \$428.

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. A chart is used to determine the proper FAP benefit issuance.⁶ RFT 260 (October 2022) pp. 1-5. Based on Petitioner's group size and net income, Petitioner's proper FAP issuance for July 2023 is \$152: the same amount calculated by MDHHS. For June 2023, Petitioner applied for FAP benefits on June 20, 2023. MDHHS prorates benefits for the month of application, beginning with the date of application, when the

³ Petitioner also alleged having auto and renter's insurance. However, neither expense is relevant to determining FAP eligibility.

⁴ Petitioner expressed displeasure at MDHHS not counting a recent decrease in housing expenses. For purposes of this decision, the higher (thus, more favorable for Petitioner) expenses will be accepted as correct.

⁵ 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.

⁶ 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.

group is eligible for the application month. BAM 115 (October 2019) p. 28. Based on an application date with 11 days left in a 30-day month, Petitioner was eligible for a prorated amount of \$55. MDHHS properly determined Petitioner's FAP eligibility for June and July 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 \$55 in June 2023 and \$152 in FAP benefits beginning July 2023. The actions taken by MDHHS are **AFFIRMED**.

CG/nr



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

Kimberly Kornoelje
Kent County DHHS
121 Martin Luther King Jr St SE
Grand Rapids, MI 49507

**MDHHS-Kent-
Hearings@michigan.gov**

Interested Parties

Kent County DHHS
BSC3
M. Holden
D. Sweeney
MOAHR

Via-First Class Mail :

Petitioner

[REDACTED]
[REDACTED], MI [REDACTED]