



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: October 4, 2023  
MOAHR Docket No.: 23-005294  
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 27, 2023. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Sarah Hess, supervisor.

**ISSUE**

The issue is whether MDHHS properly terminated 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 August 2023, Petitioner was an ongoing recipient of FAP benefits as the only member of the benefit group.
2. As of August 2023, Petitioner received \$1,607 in gross monthly Retirement Survivors, Disability Insurance (RSDI).
3. As of August 2023, Petitioner received \$ [REDACTED] in gross monthly spousal support.
4. As of August 2023, Petitioner reported to MDHHS \$329 in medical expenses and no day care or child support expenses.

5. As of August 2023, Petitioner reported to MDHHS a housing obligation of \$398.84 and a responsibility to pay for heating and/or cooling.
6. On August 14, 2023, MDHHS terminated Petitioner's FAP eligibility beginning September 2023 due to excess net income.
7. On September 1, 2023, Petitioner verbally requested a hearing to dispute the termination of FAP benefits.

### **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. 5-10. A Notice of Case Action dated August 14, 2023, stated that Petitioner's FAP eligibility ended beginning September 2023 due to excess net income.<sup>1</sup> Exhibit A, pp. 44-49.

FAP eligibility is based on a client's net income. Net income, for purposes of FAP benefits, is based on the client's group size, countable monthly income, and relevant monthly expenses. BEM 556 outlines the factors and calculations required to determine net income. MDHHS presented a budget verifying how it calculated Petitioner's net income. Exhibit A, pp. 52-54. During the hearing, all relevant budget factors were discussed with Petitioner.

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

It was not disputed that Petitioner received \$1,607 in gross monthly RSDI benefits. For FAP benefits, gross RSDI is countable. BEM 503 (January 2023) p. 29. It was also not disputed that Petitioner received \$[REDACTED] in gross monthly voluntary spousal support. For FAP, voluntary monthly spousal support is countable. *Id.*, p. 34. Petitioner's total unearned income totaled \$[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,

---

<sup>1</sup> The notice also indicated a termination due to receipt of benefits from multiple states and an unspecified failure to verify. MDHHS acknowledged that Petitioner's case was only closed due to excess net income.

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

and court-ordered child support and arrearages paid to non-household members (see *Id.*). For groups containing SDV members, MDHHS additionally considers an uncapped shelter expense and the medical expenses above \$35 for each SDV group member(s).

Presumably, Petitioner was disabled and/or aged based on receipt of RSDI; thus, medical expenses may be counted. Petitioner acknowledged having \$329 in monthly medical expenses. Applying the standard \$35 copayment results in countable medical expenses of \$294. Petitioner acknowledged having no child support or dependent care expenses. Petitioner's non-shelter expenses are \$294.

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 (\$294) from Petitioner's group's countable income (\$██████) results in an adjusted gross income of \$██████.

MDHHS credited Petitioner with monthly housing expenses of \$399 (rounding up to nearest dollar); Petitioner did not allege additional housing expenses. MDHHS also 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>3</sup> Adding Petitioner's housing expenses and utility credits results in total shelter expenses of \$1,023.

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 amount is \$38 (rounding up to nearest dollar).

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 \$1,933 in net income for Petitioner's group. The net income limit for Petitioner's group size is \$1,133. RFT 250 (October 2022) p. 1. Because Petitioner's group's net income exceeds the net income limit, MDHHS properly terminated Petitioner's FAP eligibility beginning September 2023 due to excess net income.


---

<sup>3</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.

**DECISION AND ORDER**

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly terminated Petitioner's FAP eligibility beginning September 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**

Sarah Hess  
Dickinson County DHHS  
1401 Carpenter Ave.  
Iron Mountain, MI 49801

**MDHHS-  
UPSCHearings@Michigan.gov**

**Interested Parties**

UPSC Hearings  
M. Holden  
D. Sweeney  
MOAHR

**Via-First Class Mail :**

**Petitioner**

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