



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: December 20, 2023  
MOAHR Docket No.: 23-006896  
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 December 19, 2023. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Juanita Muñoz, hearings facilitator. Caralyce Lassner, administrative law judge with the Michigan Office of Administrative Hearings and Rules, observed the hearing.

### **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] 2023, Petitioner applied for FAP benefits and reported a household with no other persons. Petitioner also reported being neither 60 years of age, disabled, nor a disabled veteran.
2. In September 2023, Petitioner received ongoing gross biweekly unemployment compensation benefits (UCB) of \$ [REDACTED]

3. As of September 2023, Petitioner had no child support or dependent care expenses.
4. On September 18, 2023, during an application interview, Petitioner reported property taxes of \$450 per year and a responsibility to pay monthly heating and/or cooling expenses.
5. On October 5, 2023, MDHHS determined Petitioner to be eligible to receive FAP benefits of \$19 for September 2023 and \$23 in ongoing monthly FAP benefits beginning October 2023.
6. On October 17, 2023, Petitioner requested a hearing to dispute the monthly determination 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. 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 a determination of FAP benefits. Exhibit A, pp. 3-4. The disputed determination followed Petitioner's application for FAP benefits dated September 6, 2023. Exhibit A, pp. 18-24. A Notice of Case Action dated October 5, 2023, stated that MDHHS approved Petitioner for \$23 in FAP benefits beginning October 2023.<sup>1</sup> Exhibit A, pp. 9-13

FAP benefit amounts are determined by a client's net income.<sup>2</sup> BEM 556 outlines the factors and calculations required to determine a client's net income. MDHHS calculates FAP net income from the program's group size, countable monthly income, and relevant monthly expenses. MDHHS presented budget document demonstrating how FAP eligibility was calculated. Exhibit A, pp. 33-35. During the hearing, all relevant budget factors were discussed with Petitioner.

It was not disputed that Petitioner sought FAP benefits only for himself. MDHHS accordingly factored a benefit group of one person.<sup>3</sup>

MDHHS calculated an unearned income of \$ [REDACTED] from Petitioner's receipt of UCB. Petitioner contended that MDHHS erred because he receives only in \$ [REDACTED] monthly

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<sup>1</sup> Petitioner's September 2023 eligibility was prorated to \$19 for September 2023 based on Petitioner's application date (see BEM 556).

<sup>2</sup> "Net income" in this context refers to MDHHS's calculation after factoring income and expenses. "Net income" in this context is not a reference to a client's income after taxes.

<sup>3</sup> See BEM 212 for policy on determining group size for FAP benefits.

UCB after taxes. For UCB, MDHHS is to factor gross income. BEM 503 (January 2023) p. 38. MDHHS converts stable or fluctuating biweekly income to a monthly amount by multiplying the average income by 2.15. BEM 505 (October 2022) p. 8. Documentation of Petitioner's UCB listed ongoing gross biweekly income of \$ [REDACTED] Exhibit A, pp. 16-17. Multiplying Petitioner's average biweekly gross wages by 2.15 results in countable monthly UCB of \$ [REDACTED] (dropping cents): the same amount unearned income calculated by MDHHS.

MDHHS uses certain expenses to determine net income for FAP eligibility. BEM 554 (April 2023) 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. *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). *Id.*

Petitioner's benefit group had no SDV members; thus, medical expenses are not countable. Petitioner alleged no dependent care or child support expenses. Petitioner's non-shelter expenses are \$0.

Petitioner's FAP benefit group size justifies a standard deduction of \$198 (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 (\$198) and countable non-shelter expenses (\$0) from the group's countable income (\$ [REDACTED]) results in an adjusted gross income of \$ [REDACTED].

During an application interview dated September 18, 2023, Petitioner reported annual housing expenses of \$450 from property taxes. Exhibit A, pp. 25-31. During the hearing, Petitioner did not allege having additional housing expenses. Dividing the annual housing expenses of \$450 by 12 results in monthly expenses of \$37.50. MDHHS credited Petitioner with a standard heating/utility (h/u) credit of \$680. RFT 255 (October 2023) p. 1. Generally, the h/u credit covers all utility expenses and is the maximum credit available.<sup>4</sup> Adding Petitioner's housing and utility credits results in total shelter expenses of \$718 (rounding up to nearest dollar).

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 \$39.

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 \$ [REDACTED] in net income

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<sup>4</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.

for Petitioner's group. A chart is used to determine the proper FAP benefit issuance.<sup>5</sup> RFT 260 (October 2023) pp. 1-78. Based on Petitioner's group size and net income, Petitioner's proper FAP issuance for October 2023 is \$23: the same amount was calculated by MDHHS. Thus, MDHHS properly determined Petitioner's FAP eligibility beginning October 2023.<sup>6</sup>

### **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 October 2023. The actions taken by MDHHS are **AFFIRMED**.

CG/nr

  
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**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>5</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.

<sup>6</sup> Petitioner's FAP eligibility for September 2023 differs slightly due to a reduced standard deduction of \$193 (RFT 255 (October 2022) p. 1) which results in an adjusted gross income of \$ [REDACTED] an excess shelter deduction of \$37, and a net income of \$ [REDACTED]. A net income of \$ [REDACTED] would result in the same \$23 issuance. RFT 260 (October 2022) pp. 1-78.

**Via-Electronic Mail :**

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**Petitioner**

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