



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  
DIRECTOR

[REDACTED] MI [REDACTED]

Date Mailed: March 14, 2024  
MOAHR Docket No.: 24-001106  
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 on March 7, 2024. Petitioner participated and was unrepresented. [REDACTED] [REDACTED] Petitioner's partner (hereinafter, "Partner"), testified on behalf of Petitioner. The Michigan Department of Health and Human Services (MDHHS) was represented by Vanessa Daniel-Kelley, specialist.

**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 that included Partner and a minor child. None of the household members were over the age of 60 years, disabled, or a disabled veteran.
2. On December 20, 2023, Petitioner hung up on MDHHS during a telephone application interview.
3. As of February 2024, Petitioner received \$ [REDACTED] in gross biweekly employment income.

4. As of February 2024, Petitioner's household had no child support or dependent care expenses.
5. As of February 2024, Petitioner had a responsibility for \$1,000 in monthly housing expenses and an obligation for heating and/or cooling expenses.
6. On February 1, 2024, MDHHS approved Petitioner for \$153 in FAP benefits beginning January 3, 2024; MDHHS approved Petitioner for \$19 in FAP benefits beginning February 2024.
7. On February 2, 2024, Petitioner requested a hearing to dispute FAP eligibility.

### **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. 3-5. Petitioner applied for FAP benefits on [REDACTED] 2023. Exhibit A, pp. 7-14. A Notice of Case Action dated February 1, 2024, approved Petitioner for \$153 in FAP benefits beginning January 3, 2024 for January 2024 and \$19 in monthly benefits beginning February 2024. Exhibit A, pp. 46-52.

Petitioner first disputed the FAP benefit begin date of January 3, 2024. MDHHS testified that FAP benefits were not issued beginning with the application date because Petitioner was at fault for the not completing the application process within 30 days form the date; specifically, MDHHS alleged that Petitioner failed to be interviewed.

MDHHS is to approve FAP benefits beginning with the application dated when the 30-day standard of promptness is met, or it is not met but the benefit group is not at fault for the delay. BAM 115 (January 2024) p. 28. If the client completes the application process between the 31<sup>st</sup> and 60<sup>th</sup> day following application, MDHHS is to re-register the application on the date that the client completes the process. *Id.*, p. 25.

For FAP benefits, MDHHS must conduct an interview before approving benefits. *Id.*, p. 20. Interviews must be scheduled promptly to meet standards of promptness. *Id.*, p. 24. If a client misses an interview appointment, MDHHS is to send a Notice of Missed Interview advising a client that it is his/her responsibility to request another interview date. *Id.* If the client calls to reschedule, the interview should be held no later than the 30<sup>th</sup> day after application, if possible. *Id.*

MDHHS held an interview with Petitioner on December 20, 2023. During the interview, MDHHS testified it asked Petitioner about household members who were not listed on Petitioner's application but listed in MDHHS's database as residing at Petitioner's address. Petitioner told the interviewing specialist that only persons reported by Petitioner resided at the address, MDHHS then asked Petitioner for a current address of persons who left the home. The line of questioning led to Petitioner abruptly ending the interview and ending the call. MDHHS testified it immediately called Petitioner back and left a voicemail stating that an interview would need to be completed for the application to be completed. Petitioner testified that she was compliant with MDHHS's questions and only hung up because her specialist was screaming at her. Petitioner also testified she called MDHHS after getting a voicemail but was unable to speak with her specialist, in part, because the specialist did not work from December 26, 2023 until January 3, 2024. It was not disputed that an interview was completed on January 3, 2024.<sup>1</sup>

The evidence from each party concerning why Petitioner did not complete an interview within 30 days of the application was not particularly persuasive. MDHHS did not present documentation detailing its call with Petitioner on December 20, 2023. Petitioner did not corroborate her testimony of efforts to call MDHHS before January 3, 2024, with phone records. Ultimately, the most persuasive evidence was the undisputed fact that Petitioner ended the interview with MDHHS. Perhaps Petitioner had good reason for doing so, but this was not established.

Given the evidence, it is found that Petitioner was at fault for not being interviewed until January 3, 2024. Thus, MDHHS properly processed Petitioner's FAP eligibility beginning January 3, 2024 due to Petitioner not completing the application process within 30 days of the application submission.

Petitioner also requested a hearing to dispute the amount of FAP benefits issued. Petitioner's testimony implied that only the determination of \$19 in monthly FAP benefits beginning February 2023 was disputed.

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 a FAP budget listing all FAP eligibility factors and calculations. Exhibit A, pp. 25-27. A budget summary from the approval notice also listed FAP budget factors. Exhibit A, p. 47. During the hearing, all relevant budget factors were discussed with Petitioner.

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<sup>1</sup> MDHHS's Hearing Summary and interview documents each stated that Petitioner was interviewed on January 17, 2024. Despite the evidence, MDHHS testimony insisted Petitioner was interviewed on January 3, 2024. MDHHS's testimony is curious because the interview documentation appeared to be computer time stamped on January 17, 2024. Nevertheless, because Petitioner did not dispute the interview date, it will be accepted that Petitioner was interviewed on January 3, 2024.

MDHHS factored a benefit group including Petitioner, her spouse, and their child. Petitioner did not object to the group size of three persons.<sup>2</sup>

It was not disputed that Petitioner was employed and received gross biweekly wages of \$[REDACTED]. Generally, MDHHS is to count gross wages.<sup>4</sup> MDHHS converts stable or fluctuating biweekly income to a monthly amount by multiplying the average income by 2.15. *Id.*, p. 8. Multiplying Petitioner's average biweekly gross wages by 2.15 results in a monthly employment income of \$[REDACTED]. MDHHS issues a 20% credit for timely reported employment income which results in a countable running income of \$[REDACTED] (dropping cents).

MDHHS uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554 (January 2024) 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, and court-ordered child support and arrearages paid to non-household members (see *Id.*). An SDV group that has a verified one-time or ongoing medical expense(s) of more than \$35 for an SDV person(s) will receive the standard medical deduction (SMD) of \$165. BEM 554 (October 2022) p. 9. If the group has actual medical expenses which are more than the SMD, the group has the option to verify their actual expenses instead of receiving the SMD. *Id.*

None of the FAP benefits group members were SDV members; thus, medical expenses are not countable. Petitioner did not allege dependent care or child support expenses for any group members. The evidence established that Petitioner's group's non-shelter expenses were \$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 (\$2,976) results in an adjusted gross income of \$[REDACTED].

MDHHS credited Petitioner with monthly housing expenses of \$1,000; Petitioner did not allege additional housing expenses. MDHHS credited Petitioner with a standard heating/utility (h/u) credit of \$680. RFT 255 (October 2023) p. 1. Generally, the h/u

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

<sup>3</sup> MDHHS obtained this amount from Petitioner's gross employment income dated February 2, 2024 on TheWorkNumber documents. Exhibit A, pp. 41-43.

<sup>4</sup> Exceptions to counting gross wages include student earnings, striker benefits, census worker pay, flexible benefits, and earned income tax credits.

credit covers all utility expenses and is the maximum credit available.<sup>5</sup> Adding Petitioner's housing and utility credits results in total shelter expenses of \$1,680.

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 \$291.

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 \$2,487 in net income for Petitioner's group. A chart is used to determine the proper FAP benefit issuance.<sup>6</sup> RFT 260 (October 2023) pp. 1-5. Based on Petitioner's group size and net income, Petitioner's proper FAP issuance for February 2024 is \$19: the same amount calculated by MDHHS. Thus, MDHHS properly determined Petitioner's FAP eligibility beginning February 2024.

### **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 FAP benefits beginning January 3, 2024. MDHHS also properly determined Petitioner to be eligible for \$19 in FAP benefits beginning February 2024. The actions taken by MDHHS are **AFFIRMED**.

CG/nr

  
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**Christian Gardocki**  
Administrative Law Judge

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<sup>5</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.

<sup>6</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.

**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 :**

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