



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



Date Mailed: May 15, 2024  
MOAHR Docket No.: 24-003575  
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 May 6, 2024. Petitioner participated and was unrepresented. [REDACTED] Client's spouse, testified on behalf of Petitioner. The Michigan Department of Health and Human Services (MDHHS) was represented by Sunshine Simonson, 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. As of March 2024, Petitioner was an ongoing recipient of FAP benefits as a member of a 5-person benefit group.
2. As of March 2024, Petitioner was not receiving ongoing unemployment compensation benefits (UCB).
3. As of March 2024, Petitioner received \$ [REDACTED] in gross weekly wages.
4. As of March 2024, no member of Petitioner's FAP benefit group had medical, dependent care, or child support expenses.

5. As of March 2024, Petitioner reported to MDHHS a monthly housing obligation of \$718.50 and a responsibility to pay for heating and/or cooling expenses.
6. On an unspecified date, MDHHS determined Petitioner to be eligible for FAP benefits in March 2024 based on \$1,556 in UCB and \$ [REDACTED] in gross monthly wages.
7. On March 26, 2024, Petitioner requested a hearing to dispute an unspecified reduction of FAP benefits beginning March 2024.
8. On April 8, 2024, MDHHS determined Petitioner was eligible to receive \$509 in FAP benefits beginning March 2024.
9. On May 9, 2024, during an administrative hearing, Petitioner limited the FAP dispute to FAP eligibility for March 2024.

### **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 reduction in FAP benefits beginning March 2024. Exhibit A, pp. 3-5. After Petitioner requested a hearing, MDHHS updated Petitioner's FAP eligibility. A Notice of Case Action dated April 8, 2024, stated that Petitioner was eligible to receive \$509 in monthly FAP benefits beginning April 2024. Exhibit A, pp. 8-13. Petitioner testified that the update satisfactorily resolved the dispute over FAP eligibility beginning April 2024; accordingly, Petitioner's dispute over FAP eligibility beginning April 2024 will be dismissed. Petitioner still sought an administrative remedy concerning FAP eligibility for March 2024.

FAP benefit amounts are 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 no documentation concerning Petitioner's March 2024 eligibility; instead, MDHHS provided testimony of all relevant budget factors. During the hearing, all relevant budget factors were discussed with Petitioner.

In determining Petitioner's FAP eligibility, MDHHS factored a group size of five persons. Petitioner did not dispute the benefit group size.<sup>1</sup>

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<sup>1</sup> See BEM 212 for policies on determining group size for FAP benefits.

MDHHS testified it factored UCB of \$1,556. MDHHS testimony acknowledged that Petitioner last received UCB in 2023 and that it should have budgeted \$0 for UCB for the benefit month of March 2024. Thus, MDHHS erred in determining Petitioner's FAP eligibility for March 2024 and will be ordered to reprocess FAP benefits based on Petitioner's group receiving \$0 UCB. For purposes of simplifying the remaining budget analysis, it will be accepted that Petitioner's group had \$[REDACTED] in unearned income.

MDHHS factored that Petitioner's gross monthly wages were \$[REDACTED]. Petitioner's testimony acknowledged he received \$764 in gross weekly wages. Petitioner's testimony was consistent with five pay documents from February and March 2024, three of which listed \$764 in earnings for Petitioner. Exhibit A, pp. 17-22. For FAP benefits, MDHHS generally counts gross wages.<sup>2</sup> BEM 501 (January 2024) p. 7. Stable or fluctuating weekly employment income is converted to a monthly amount by multiplying the average income by 4.3. BEM 505 (October 2023) p. 8. Multiplying Petitioner's average gross weekly income of \$764 by 4.3 results in monthly employment income of \$3,285 (dropping cents). The evidence supported that MDHHS under-calculated Petitioner's wages. As a result, MDHHS shall recalculate Petitioner's wages when reprocessing FAP eligibility for March 2024. Again, for purposes of simplifying the remaining analysis, it will be accepted that Petitioner's wages were \$[REDACTED].

MDHHS allows a 20% budget credit for timely reported employment income. Applying the credit to Petitioner's wages results in \$1,947 (dropping cents) in countable wages. Adding the UCB to countable wages results in countable income of \$3,503.

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. *Id.*, p. 9. If the group has actual medical expenses which are more than the SMD, the group has the option to verify actual expenses instead of receiving the SMD. *Id.*

Petitioner acknowledged having no child support, medical, or dependent care expenses. Petitioner's non-shelter expenses are \$0: the same amount budgeted by MDHHS.

Petitioner's FAP benefit group size justifies a standard deduction of \$244 (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 (\$244) and countable non-shelter expenses (\$0) from Petitioner's group's countable income

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<sup>2</sup> Exceptions to using gross wages include the following: earned income tax credits, flexible benefits, striker earnings, student disregards, and census worker earnings. BEM 501 (January 2024) p. 7. The evidence did not suggest any applicable exceptions for the present case.

(\$3,503) results in an adjusted gross income of \$ [REDACTED] the same amount calculated by MDHHS.

MDHHS credited Petitioner with monthly housing expenses of \$718.50. Petitioner did not allege additional housing expenses. MDHHS also 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>3</sup> Adding Petitioner's housing expenses and utility credits results in total shelter expenses of \$1,398.50.

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 \$0.

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 for Petitioner's group: MDHHS calculated the same net income. A chart is used to determine the proper FAP benefit issuance.<sup>4</sup> RFT 260 (October 2023) pp. 1-5. Based on Petitioner's group size and net income, Petitioner's proper FAP issuance for March 2024 is \$177. MDHHS did not present documentation verifying the amount of FAP benefits issued to Petitioner in March 2024; however, it is presumed that MDHHS calculated Petitioner to be eligible for \$177 based on calculating \$ [REDACTED] in net income.

Given the evidence, MDHHS committed two errors in determining Petitioner's FAP eligibility for March 2024. As a remedy, MDHHS will be ordered to reprocess benefits subject to correcting Petitioner's wages and UCB.

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<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.

<sup>4</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.

**DECISION AND ORDER**

The administrative law judge, based upon the above findings of fact and conclusions of finds that Petitioner withdrew his dispute concerning FAP eligibility beginning April 2024. Concerning FAP eligibility beginning April 2024, Petitioner's hearing request is **DISMISSED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly determined Petitioner's FAP eligibility for March 2024. It is ordered that MDHHS commence the following actions within 10 days of the date of mailing of this decision:

- (1) Reprocess Petitioner's FAP eligibility beginning March 2024 subject to the following findings:
  - a. MDHHS improperly over-calculated Petitioner's UCB;
  - b. MDHHS improperly under-calculated Petitioner's wages; and
- (2) Issue notice and supplements, if any, in accordance with all MDHHS policy.

The actions taken by MDHHS are **REVERSED**.

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**

Tara Roland 82-17  
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**MDHHS-Wayne-17-  
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**Interested Parties**

Wayne 17 County DHHS  
BSC4  
M. Holden  
N. Denson-Sogbaka  
B. Cabanaw  
MOAHR

**Via-First Class Mail :**

**Petitioner**

[REDACTED]  
[REDACTED], MI [REDACTED]