



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
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DIRECTOR

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[REDACTED], MI [REDACTED]

Date Mailed: May 17, 2024
MOAHR Docket No.: 24-004003
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 May 9, 2024. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Shawnte Shorts, 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 February 2024, Petitioner was an ongoing recipient of FAP benefits as the only member of the benefit group.
2. As of March 2024, Petitioner received \$977 in gross combined monthly Retirement Survivors, Disability Insurance (RSDI) and Supplemental Security Income (SSI).
3. As of March 2024, Petitioner had no medical, dependent care, or child support expenses.

4. As of March 2024, Petitioner reported to MDHHS a monthly housing obligation of \$407 and a responsibility to pay for electricity and telephone.
5. On April 3, 2024, MDHHS determined Petitioner was eligible to receive \$57 in FAP benefits beginning May 2024.
6. On April 11, 2024, Petitioner requested a hearing to dispute the reduction 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 reduction in FAP benefits. Exhibit A, pp. 4-6. A Notice of Case Action dated April 3, 2024, stated that Petitioner was eligible to receive \$57 in monthly FAP benefits beginning May 2024.¹ Exhibit A, pp. 18-22.

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 a budget verifying how it calculated Petitioner's net income and FAP eligibility. Exhibit A, pp. 30-32. 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.²

It was not disputed that Petitioner received \$977 in combined gross monthly RSDI and SSI benefits. For FAP benefits, gross RSDI is countable. BEM 503 (January 2023) p. 29. For FAP benefits, gross SSI is countable. *Id.* p. 35. Petitioner had no other income.³ For FAP benefits, Petitioner's countable income is \$977.

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),

¹ The impetus for the determination appeared to be a Change Report submitted by Petitioner to MDHHS on February 7, 2024. Exhibit A, pp. 8-9.

² See BEM 212 for policies on determining group size for FAP benefits.

³ MDHHS's Hearing Summary referenced Petitioner's wages. Exhibit A, p. 1. MDHHS also presented corresponding pay documents. Exhibit A, pp. 11-16. As it happened, the wages were earned by Petitioner's daughter. Ultimately, the wages were irrelevant because MDHHS did not factor them in determining Petitioner's FAP eligibility.

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 their actual expenses instead of receiving the SMD. *Id.*

Petitioner did not allege having any dependent care, child support, or medical expenses. Thus, Petitioner'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 Petitioner's group's countable income (\$977) results in an adjusted gross income of \$779: the same adjusted gross income counted by MDHHS.

MDHHS credited Petitioner with monthly housing expenses of \$0. MDHHS testimony acknowledged that Petitioner submitted documentation on January 9, 2024, verifying monthly out-of-pocket rent of \$407.⁴ MDHHS provided no explanation for why it budgeted \$0 for housing expenses. The evidence established that MDHHS improperly calculated \$0 for Petitioner's housing expenses; thus, MDHHS will be ordered to recalculate Petitioner's housing expenses.⁵ For purposes of simplifying the remaining analysis only, it will be accepted that Petitioner's housing expenses were \$0.

Petitioner testified she was responsible for paying electricity only. Petitioner also had a telephone. MDHHS properly credited Petitioner with the standard credits for electricity (\$157) and telephone (\$31). RFT 255 (October 2023) p. 1. Adding Petitioner's housing expenses and utility credits results in total shelter expenses of \$188.

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 \$779 in net income for

⁴ Petitioner's rent was partially subsidized. Petitioner testified the total rent, including subsidy, was \$710. The full rent is not budgetable because expenses are only allowable if the person in the FAP group has the responsibility to pay it. BEM 554 (January 2024) p. 1. Petitioner is only responsible to pay her \$407 portion.

⁵ Petitioner may only be eligible for half of the expense if her daughter, a co-resident of Petitioner's, is responsible for payment of half of the rent (see BEM 554).

Petitioner's group. A chart is used to determine the proper FAP benefit issuance. ⁶ RFT 260 (October 2023) pp. 1-5. Based on Petitioner's group size and net income, Petitioner's proper FAP issuance for May 2024 is \$57: the same amount calculated by MDHHS. Thus, MDHHS properly determined Petitioner's FAP eligibility beginning May 2024 other than the amount budgeted for housing expenses.

DECISION AND ORDER

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 May 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 May 2024 subject to the finding that MDHHS improperly determined Petitioner's housing expenses; 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

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.

Via-Electronic Mail :

DHHS

Denise Key-McCoggle
Wayne-Greydale-DHHS
27260 Plymouth Rd
Redford, MI 48239

**MDHHS-Wayne-15-Greydale-
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Interested Parties

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BSC4
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Via-First Class Mail :

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