



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: May 30, 2024
MOAHR Docket No.: 24-004396
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 23, 2024. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Avery Smith, 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. On [REDACTED] [REDACTED] 2024, Petitioner applied for FAP benefits and reported a household that included his spouse.
2. On an unspecified date, Petitioner submitted to MDHHS pay documents for his spouse which listed receipt of \$ [REDACTED] in biweekly gross earnings on February 15 and March 1, 2024.
3. As of March 2024, neither Petitioner nor his spouse had day care, child support, or medical expenses.

4. As of March 2024, Petitioner reported to MDHHS a monthly housing obligation of \$1,877 and a responsibility to pay for heating and/or cooling costs.
5. On an unspecified date, MDHHS determined Petitioner to be ineligible for FAP benefits in March 2024 based on \$7,500 in monthly wages for the benefit group.
6. On March 29, 2024, MDHHS determined Petitioner was eligible for \$617 in FAP benefits beginning April 2024 based on monthly wages of \$4,999.
7. On April 15, 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. 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 determination of FAP benefits. Exhibit A, pp. 3-4. Petitioner applied for FAP benefits on [REDACTED] [REDACTED] 2024.¹ A Notice of Case Action dated March 29, 2024, stated that Petitioner was eligible to receive \$0 in monthly FAP benefits beginning March 14, 2024, and \$617 in FAP benefits beginning April 2024. Exhibit A, pp. 9-14.

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 summary listing all relevant FAP budget factors. During the hearing, all relevant budget factors were discussed with Petitioner.² The only dispute concerned employment income.

MDHHS determined Petitioner was ineligible for FAP benefits in March 2024. Though MDHHS did not state why, it is presumed that MDHHS determined Petitioner's group had excess income. MDHHS testified that it determined Petitioner's group's income for March to be \$[REDACTED]. MDHHS's Hearing Summary contended that Petitioner's dispute was favorably resolved after acknowledging it improperly included Petitioner's allegedly

¹ MDHHS's evidence could not even state if Petitioner was an ongoing recipient or an applicant. Petitioner's status as an applicant was inferred from a notice stating Petitioner was denied FAP benefits beginning March 14, 2024. Exhibit A, p. 9. A denial or approval for a date other than the first of the month is consistent with an application submission on that date.

² Budget factors not disputed by Petitioner included the following: a group size of seven, no dependent care expenses, no child support expenses, no medical expenses, housing costs of \$1,877, and receipt of the maximum utility credit. The only disputed budget factor was employment income.

uncountable educational wages in denying FAP benefits for March 2024.³ Exhibit A, p. 1. Despite MDHHS's acknowledgment, there was no evidence that MDHHS recalculated Petitioner's FAP eligibility for March 2024 after excluding Petitioner's uncountable wages.

Given the evidence, MDHHS failed to properly determine Petitioner's FAP eligibility for March 2024. As a remedy, Petitioner is entitled to a redetermination of FAP benefits for March 2024 based on Petitioner's uncountable educational income being excluded.

Concerning April 2024 FAP eligibility, MDHHS testified it counted \$ [REDACTED] for Petitioner's group's income. In explaining the calculation, MDHHS testified that Petitioner's wages were excluded and only the wages for his spouse were factored. MDHHS testified that Petitioner's spouse earned \$ [REDACTED] in gross biweekly income. For FAP benefits, MDHHS generally counts gross wages.⁴ BEM 501 (January 2024) p. 7. Stable or fluctuating biweekly employment income is converted to a monthly amount by multiplying the average income by 2.15. BEM 505 (October 2023) p. 8. Multiplying Petitioner's spouse's average biweekly income by 2.15 results in monthly gross wages of \$ [REDACTED] (dropping cents). The testifying MDHHS supervisor could not explain how MDHHS determined countable income to be \$ [REDACTED] if only Petitioner's spouse's biweekly wages of \$ [REDACTED] were counted.

Given the evidence, MDHHS failed to establish it properly determined Petitioner's group's countable wages to be \$ [REDACTED] in determining FAP eligibility beginning April 2024. As a remedy, Petitioner is also entitled to a reprocessing of FAP eligibility beginning April 2024.

³ Documentation of Petitioner's wages were presented. Exhibit A, pp. 5-7. The evidence did not establish if Petitioner's wages should be excluded. However, because MDHHS acknowledged that Petitioner's wages were not countable, it is accepted as fact that Petitioner's wages should be excluded in the budget.

⁴ 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.

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. 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 benefits for March 2024 subject to the finding that MDHHS failed to establish that MDHHS properly calculated countable income to be \$ [REDACTED]
- (2) Reprocess Petitioner's FAP benefits beginning April 2024 subject to the finding that MDHHS failed to establish that MDHHS properly calculated countable income to be \$ [REDACTED] and
- (3) Issue supplements and notice, if any, in accordance with 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

Yaita Turner
Oakland County Southfield District III
25620 W. 8 Mile Rd
Southfield, MI 48033
**MDHHS-Oakland-6303-
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Interested Parties

Oakland 3 County DHHS
BSC4
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B. Cabanaw
MOAHR

Via-First Class Mail :

Petitioner

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