



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: August 30, 2024  
MOAHR Docket No.: 24-008253  
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 August 21, 2024. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Ahmed Elahrag, supervisor, and Cynthia Powell, specialist.<sup>1</sup>

**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 July 2024, Petitioner was an ongoing recipient of FAP benefits and reported a recent foster child added to the household.
2. On July 8, 2024, MDHHS received pay documents listing the following gross weekly wages from 2024 for Petitioner: \$ [REDACTED] on June 14, \$ [REDACTED] on June 21, \$ [REDACTED] on June 28, and \$ [REDACTED] on July 5.
3. As of July 2024, Petitioner's son, [REDACTED] [REDACTED] (hereinafter, "Son") was enrolled at least halftime in a college curriculum while being aged 18-49 years. Also, Son

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<sup>1</sup> For unstated reasons, Ms. Powell's participation abruptly ended before the hearing concluded.

was neither employed, engaged in work study, nor participating in any exceptions to student status.

4. On July 11, 2024, MDHHS determined Petitioner was eligible to receive \$408 in FAP benefits beginning August 2024, based on \$1,616 in gross monthly income for Petitioner and a benefit group excluding Son.
5. On July 18, 2024, Petitioner requested a hearing to dispute the 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. FAP policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner verbally requested a hearing to dispute a determination of FAP benefits.<sup>2</sup> Exhibit A, pp. 3-5. A Notice of Case Action dated July 11, 2024, stated that MDHHS determined Petitioner was eligible for \$408 in monthly FAP benefits beginning August 2024. Exhibit A, pp. 7-13. During the hearing, all FAP eligibility factors were discussed with Petitioner. Petitioner had two specific disputes.

Petitioner's first dispute concerned group composition. The approval notice stated that Petitioner's group size included two persons: Petitioner and a foster child. Petitioner contended the proper group size was three persons and should have included Son. MDHHS excluded Son from Petitioner's FAP benefit group due to student status.

A person in student status must meet certain criteria to be eligible for FAP benefits. A person is in student status if he/she is:

- Age 18 through 49; and
- Enrolled half-time or more in either a:
  - Vocational, trade, business, or technical school that normally requires a high school diploma or an equivalency certificate.
  - Regular curriculum at a college or university that offers degree programs regardless of whether a diploma is required. BEM 245 (April 2021) pp. 3-4.

It was not disputed that Son was 18-49 years old. Petitioner's testimony acknowledged that Son was enrolled half-time or more as a college student. The evidence established that MDHHS properly determined Son to be in student status.

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<sup>2</sup> Clients may verbally request hearings to dispute FAP benefits. BAM 600 (February 2024) p. 8.

For a person in student status to be eligible for FAP benefits, he or she must meet one of the following criteria:

- Receiving FIP benefits
- Enrolled in an institution of higher education as a result of participation in:
  - A JTPA program.
  - A program under section 236 of the Trade Readjustment Act of 1974 (U. S. C. 2296).
  - Another State or local government employment and training program.
- Physically or mentally unfit for employment.
- Employed for at least 20 hours per week and paid for such employment.
- Self-employed for at least 20 hours per week and earning weekly income at least equivalent to the federal minimum wage multiplied by 20 hours.
- Participating in an on-the-job training program. A person is considered to be participating in an on-the-job training program only during the period of time the person is being trained by the employer.
- Participating in a state or federally-funded work study program (funded in full or in part under Title IV-C of the Higher Education Act of 1965, as amended) during the regular school year (i.e. work study).
- Providing more than half of the physical care of a group member under the age of six.
- Providing more than half of the physical care of a group member age six through eleven and the local office has determined adequate child care is not available to:
  - Enable the person to attend class and work at least 20 hours per week.
  - Participate in a state or federally-financed work study program during the regular school year.
- A single parent enrolled full-time in an institution of higher education who cares for a dependent under age 12. This includes a person who does not live with his or her spouse, who has parental control over a child who does not live with his or her natural, adoptive or stepparent.

BEM 245 (April 2021) pp. 3-5.

There was no evidence that Son was employed, in work study, or otherwise eligible for an exception to student status. Without meeting an exception to student status, MDHHS properly excluded Son from the benefit group and properly factored Petitioner's FAP eligibility based on a group size of two persons.

Petitioner's second dispute over FAP benefits concerned gross income.<sup>3</sup> MDHHS factored \$1,616 in monthly gross income for Petitioner; Petitioner contended the calculated income was too high.

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<sup>3</sup> MDHHS contended that Petitioner did not request a hearing dispute over gross income; therefore, according to MDHHS, Petitioner was not entitled to administrative hearing consideration concerning gross income. MDHHS's contention was unpersuasive because Petitioner disputed FAP eligibility and income is a factor in FAP eligibility. Further, MDHHS's inclusion of Petitioner's wage documents in the hearing packet implies that MDHHS knew that income was relevant.

It was not disputed that the only household income stemmed from Petitioner's employment. Wage documents from Petitioner's employment in 2024 verified the following gross income and pay dates: \$██████ on June 14, \$██████ on June 21, \$██████ on June 28, and \$██████ on July 5. Exhibit A, pp. 16-19. MDHHS was unable to provide any guidance on how \$1,616 in monthly gross wages were calculated from the wage documents. After the hearing, the undersigned deduced that Petitioner's income was calculated from the last three weeks of income documents.<sup>4</sup>

For FAP benefits, MDHHS generally counts gross wages.<sup>5</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 the sum of the last three weeks of total gross income (\$1,127.50) by three to determine the weekly average (\$375.83) and multiplying by 4.3 results in a monthly income of \$1,616 (dropping cents).

MDHHS was unable to state why it discarded Petitioner's wages from June 14, 2024. Without an explanation of why Petitioner's June 14, 2024 income was disregarded, the determination of FAP benefits cannot be affirmed. As a remedy, Petitioner is entitled to a reprocessing of FAP benefits. However, Petitioner provided no persuasive or detailed evidence as to why \$1,616 in gross income was an unfair projection of income. Thus, it cannot be concluded that MDHHS improperly calculated \$1,616 in gross income, only that MDHHS did not establish the amount as correct.

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<sup>4</sup> When sufficient income documents are submitted, the undersigned can usually deduce the calculation. During the hearing, the undersigned misadded the income from the presented documents and wrongly concluded that \$1,616 could not be derived from presented verifications.

<sup>5</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.

**DECISION AND ORDER**

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly excluded Son as a FAP benefit group member due to student status. Concerning group composition, the actions taken by MDHHS are **AFFIRMED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS failed to establish it properly 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 eligibility beginning August 2024 subject to the finding that MDHHS failed to establish it properly determined Petitioner's gross monthly income to be \$1,616.00; and
- (2) Issue notice and supplements, 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**

Trista Waishkey  
Washtenaw County DHHS  
22 Center Street  
Ypsilanti, MI 48198

**MDHHS-Washtenaw-Hearings@michigan.gov**

**Interested Parties**

BSC4

M. Holden

N. Denson-Sogbaka

B. Cabanaw

MOAHR

**Via-First Class Mail :**

**Petitioner**

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