



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

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Date Mailed: May 2, 2022  
MOAHR Docket No.: 22-001450  
Agency No.: ██████████  
Petitioner: ██████████

**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 April 27, 2022. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Caitlyn Dodge, supervisor.

**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 2022, Petitioner received ongoing FAP benefits of \$131 as a one-person group.
2. As of March 2022, Petitioner received \$████████ per month in gross Retirement, Survivors, Disability Insurance (RSDI).
3. As of March 2022, Petitioner had no child support, dependent care, or reported medical expenses.
4. As of March 2022, Petitioner reported to MDHHS monthly housing costs of \$662.25 and a non-heat electricity obligation.

5. On March 9, 2022, MDHHS determined Petitioner to be eligible for \$57 in monthly FAP benefits beginning April 2022.
6. On March 31, 2022, Petitioner requested a hearing to dispute the reduction in 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 reduction in FAP eligibility. Exhibit A, p. 3. A Notice of Case Action dated March 9, 2022, stated that Petitioner's FAP eligibility would be reduced to \$57 beginning April 2022.<sup>1</sup> Exhibit A, pp. 4-8.

FAP benefit amounts are dictated by a client's net income. BEM 556 outlines the factors and calculations required to determine a client's net income, Group size, countable monthly income, and relevant monthly expenses are each budget factors. MDHHS presented previous and current FAP budgets listing all relevant calculations and budget factors.<sup>2</sup> Exhibit A, pp. 9-12. During the hearing, all relevant budget factors were discussed with Petitioner.

In determining Petitioner's FAP eligibility, MDHHS factored a group size of one.<sup>3</sup> Petitioner did not dispute the benefit group size.

MDHHS factored \$██████ in unearned income in determining Petitioner's FAP eligibility. Petitioner's testimony acknowledged receiving \$██████ in monthly gross RSDI. For FAP benefits, gross RSDI is countable. BEM 503 (April 2019) p. 29. For purposes of FAP eligibility, Petitioner's countable income is \$██████.

MDHHS uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554 (October 2015), p. 1. For groups without a senior (over 60 years old), disabled or disabled veteran (SDV) member, MDHHS considers the following expenses: childcare, excess shelter (housing and utilities) up to a capped amount and court-

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<sup>1</sup> Though Petitioner is only eligible to receive \$57 in FAP benefits, she will be receiving more. Since March 2020, due to a temporary policy during the COVID-19 pandemic, MDHHS has issued the maximum amount of FAP benefits (based on group size) to eligible clients. Because the policy is temporary, Petitioner may still dispute FAP eligibility.

<sup>2</sup> MDHHS credibly testified that the reduction in FAP benefits was caused by removing a Medicare premium expense of \$170 which Petitioner no longer pays. Though MDHHS's testimony was credible, a full budget analysis is needed to determine if Petitioner's FAP eligibility was correctly calculated.

<sup>3</sup> See BEM 212 for policies on determining group size for FAP benefits.

ordered child support and arrearages paid to non-household members (see *Id.*). For groups containing SDV members, MDHHS additionally considers an uncapped excess shelter expense and medical expenses above \$35 for each SDV group member(s).

Petitioner's testimony acknowledged that she did not have child support or dependent care expenses. Petitioner also acknowledged not reporting any medical expenses to MDHHS.

The standard deduction is given to all FAP benefit groups, though the amount varies based on the benefit group size. Petitioner's FAP benefit group size justifies a standard deduction of \$177 (see RFT 255). The standard deduction and countable non-shelter expenses are subtracted from countable monthly income to calculate the group's adjusted gross income. Subtracting the standard deduction (\$177) and countable non-shelter expenses (\$0) from Petitioner's countable income results (\$██████) in an adjusted gross income of \$██████.

MDHHS credited Petitioner with monthly housing expenses of \$662.25. Petitioner testified that her rent recently increased but acknowledged her rent was \$662.25 at the time of the disputed determination.<sup>4</sup> MDHHS issued a standard non-heat electricity credit of \$150 (see RFT 255). Petitioner's testimony acknowledged that she was not responsible for the payment of any other utilities.<sup>5</sup> Adding Petitioner's housing and utility credits results in a total shelter obligation of \$812 (dropping cents).

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 \$327.

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 \$643 in net income for Petitioner's group. A chart is used to determine the proper FAP benefit issuance.<sup>6</sup> RFT 260 (October 2021) pp. 1-5. Based on net income, Petitioner is eligible to receive \$57 in FAP benefits for April 2022; the same amount was calculated by MDHHS. Thus, MDHHS properly determined Petitioner's FAP eligibility.

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<sup>4</sup> Petitioner's testimony should be considered a reporting of increased expenses that MDHHS should factor in Petitioner's future FAP eligibility.

<sup>5</sup> Petitioner's testimony suggested she may be eligible for a standard of heating credit. She testified that her landlord regularly lists utility fees on Petitioner's rental bill. Petitioner was unsure for which utilities the fees covered and whether she paid the fees. Petitioner was advised to discuss the matter with her landlord and to report to MDHHS any responsibility for utilities beyond her rental payment.

<sup>6</sup> Alternatively, a FAP benefit amount can be calculated by subtracting 30% of a client's net income from the maximum FAP issuance for the group size.

