



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

██████████ ██████████  
██████████ ██████████ ██████████  
██████████ MI ██████████

Date Mailed: May 31, 2022  
MOAHR Docket No.: 22-001860  
Agency No.: ██████████  
Petitioner: ██████████ ██████████

**ADMINISTRATIVE LAW JUDGE: Danielle Nuccio**

### **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 telephone hearing was held on May 26, 2022. The Petitioner appeared and represented herself. The Department of Health and Human Services (MDHHS) was represented by Tiffany Flemings, Assistant Payments Worker.

### **ISSUE**

Did MDHHS properly calculate Petitioner's Food Assistance Program (FAP) budget to determine her monthly amount of benefits?

### **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 March 24, 2022, Petitioner submitted an application for FAP benefits for a one-person group. Petitioner reported that:
  - a. Petitioner is a ██████████ (over ████████ years old), disabled or disabled veteran (S/D/V) individual.
  - b. Petitioner reported that she has \$██████████ in liquid assets.
  - c. Petitioner reported to MDHHS no child support or dependent care expenses.
  - d. Petitioner did not submit proof of any medical expenses.

- e. Petitioner reported paying \$570.00 per month for rent and is responsible for paying for electricity.

(Exhibit A, pp. 7-16).

2. On April 5, 2022, MDHHS interviewed Petitioner as part of the FAP application process. Petitioner reported that she receives \$ [REDACTED] per month in Retirement, Survivors, Disability Insurance (RSDI) benefits (Exhibit A, pp. 17-23).
3. On April 5, 2022, MDHHS issued a Notice of Case Action to Petitioner informing her that she was eligible for FAP benefits in the amount of \$100.00 monthly for a group size of one (Exhibit A, pp. 28-32).
4. On April 26, 2022, MDHHS received a timely submitted request for hearing from Petitioner disputing the monthly amount of FAP benefits she is eligible to receive (Exhibit A, pp. 3-4).

### **CONCLUSIONS OF LAW**

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

The Food Assistance Program [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 FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute the determination of her monthly FAP amount. Petitioner was approved to receive \$100.00 per month in FAP benefits.<sup>1</sup>

FAP benefit amounts are determined by a client's net income. BEM 556 outlines the factors and calculations required to determine a client's net income. FAP net income factors group size, countable monthly income, and relevant monthly expenses. MDHHS presented budget documents listing the calculations to determine Petitioner's FAP eligibility. During the hearing, all relevant budget factors were discussed with Petitioner.

---

<sup>1</sup> Though Petitioner is only eligible for \$100.00 in monthly FAP benefits, MDHHS has issued the maximum FAP issuance for a client's group size since March 2020. The extra benefits are a result of a temporary policy during the COVID-19 pandemic. As the policy is only temporary, a full analysis of Petitioner's FAP eligibility is still appropriate.

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

MDHHS factored that Petitioner's group's unearned income was \$ [REDACTED] per month. Petitioner receives this monthly amount in RSDI benefits. Petitioner confirmed that this is the only income the household receives. No other income was factored into the budget by MDHHS.

MDHHS uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554 (July 2021) p. 1. For groups containing S/D/V members, such as Petitioner's, MDHHS considers: a standard deduction (discussed below), childcare, court-ordered child support and arrearages paid to non-household members, a capped excess shelter expense, the medical expenses above \$35 for each S/D/V group member(s), and an uncapped excess shelter expense. BEM 554, p. 1.

MDHHS factored no medical, child support, or dependent care expenses for Petitioner's FAP eligibility. As an S/D/V member, Petitioner could have submitted out of pocket medical expenses for consideration of eligibility for a medical expense deduction. BEM 554, pp. 1, 3. However, Petitioner did not submit for consideration out of pocket medical expenses but was advised that she could in the future. Thus, MDHHS properly counted the group's non-shelter expenses to be \$0.00.

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 \$177.00. RFT 255 (October 2021) p. 1. The standard deduction and countable non-shelter expenses are subtracted from the countable monthly income to calculate the group's adjusted gross income. Petitioner's adjusted gross income is calculated to be \$ [REDACTED].

MDHHS testified that it calculated Petitioner's housing expenses from her report of \$570.00 in rent and responsibility for paying electricity. Petitioner was credited with a standard heating/utility (h/u) credit of \$559.00. RFT 255, p. 1. Generally, the h/u credit covers all utility expenses and is the maximum credit available.<sup>2</sup> Petitioner requested consideration of the expenses for her phone, television, and cable. These expenses are not included in determining FAP eligibility. MDHHS only credits FAP benefit groups with an "excess shelter" expense. The excess shelter expense is calculated by subtracting half of the adjusted gross income from the total shelter obligation. Petitioner's excess shelter amount is \$587.00.

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 \$497.00 in net income for Petitioner's group. A chart is used to determine the proper FAP benefit issuance. RFT 260 (October 2021) p. 7. Based on Petitioner's group size and net income, Petitioner's

---

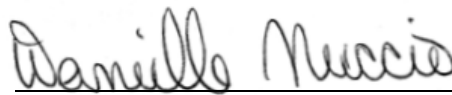
<sup>2</sup> MDHHS allows additional credits for "actual utility expenses". Such expenses are only allowed for utility installation charges, water well installation and maintenance, and septic installation and maintenance. BEM 554 (January 2022) p. 15. There was no evidence of applicable exceptions.

proper FAP benefit issuance for March 2022 is \$100.00; the same issuance amount that was calculated by MDHHS. Thus, MDHHS properly determined Petitioner's FAP eligibility.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the MDHHS acted in accordance with Department policy when it determined Petitioner to be eligible for \$100.00 in monthly FAP benefits.

**DECISION AND ORDER**

Accordingly, the Department's decision is **AFFIRMED**.



---

**Danielle Nuccio**  
Administrative Law Judge

DN/mp

**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 :**

MDHHS-Wayne-18-Hearings  
D. Sweeney  
M. Holden  
MOAHR  
BSC4

**Via-First Class Mail :**

████████ ██████████  
████████ ██████████  
████████ MI ██████████