



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: June 1, 2022
MOAHR Docket No.: 22-001877
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 May 26, 2022. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Tiontia Bell, 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 March 2022, Petitioner received ongoing FAP benefits 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 was responsible for monthly housing costs of no more than \$350 and a heating and/or cooling obligation.
4. As of March 2022, Petitioner had no child support, dependent care, or reported medical expenses.

5. On March 23, 2022, MDHHS determined Petitioner to be eligible for \$192 per month in FAP benefits beginning April 2022.
6. On March 23, 2022, MDHHS approved Petitioner for Medicare Savings Program (MSP) beginning April 2022.
7. On April 9, 2022, MDHHS reduced Petitioner's FAP eligibility to \$117 per month beginning May 2022.
8. On April 27, 2022, 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 reduction in FAP benefits from \$192 to \$117 per month. Exhibit A, pp. 4-5. A Notice of Case Action dated April 9, 2022, stated that Petitioner was eligible for \$117 per month in FAP benefits due to a change in medical expenses.¹ Exhibit A, pp. 16-20.

MDHHS explained that Petitioner's medical expenses were reduced after MDHHS approved Petitioner for MSP. On March 23, 2022, MDHHS approved Petitioner for \$192 in FAP benefits based on medical monthly expenses of \$200.² Exhibit A, pp. 11-15. The evidence indicated that Petitioner's medical expenses derived from her responsibility of a Medicare premium. Also on March 23, 2022, MDHHS approved Petitioner for MSP. Petitioner's MSP approval resulted in MDHHS paying for Petitioner's Medicare premium leaving Petitioner with no reported medical expenses.

The evidence supports that Petitioner's FAP eligibility was properly reduced due to a change in medical expenses. However, a full budget evaluation of Petitioner's net income is needed to determine if MDHHS properly determined Petitioner to be eligible for \$117 in FAP benefits.

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. The notice dated April 9, 2022, included a list of all budget factors. Exhibit A, p. 17. MDHHS also presented FAP budgets listing all relevant factors and

¹ The notice also stated that Petitioner's shelter deduction changed. Though MDHHS changed Petitioner's shelter deduction, it did not change any of Petitioner's shelter expenses.

² The notice dated April 9, 2022, listed countable medical expenses of \$165 after applying a budget copayment of \$35.

calculations.³ Exhibit A, pp. 9-10. During the hearing, all relevant budget factors were discussed with Petitioner.

In determining Petitioner's FAP eligibility, MDHHS factored a group size of one.⁴ Petitioner did not dispute the benefit group size.

MDHSH factored an unearned income of \$[REDACTED]. Petitioner's testimony acknowledged her receipt of \$[REDACTED] in monthly gross RSDI. For FAP benefits, gross RSDI is countable. BEM 503 (April 2019) p. 29. Thus, MDHHS properly calculated Petitioner's unearned income.

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-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 the medical expenses above \$35 for each SDV group member(s). Petitioner was disabled and/or aged.

Petitioner's testimony acknowledged that she did not have child support or dependent care expenses. Petitioner also acknowledged having no medical expenses after MDHHS approved her for MSP. Thus, Petitioner's countable non-shelter expenses are \$0.

Petitioner's FAP benefit group size justifies a standard deduction of \$177 (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 (\$177) and countable non-shelter expenses (\$0) from Petitioner's income results in an adjusted gross income of \$900.

MDHHS credited Petitioner with monthly housing expenses of \$350. Petitioner testified that her housing expenses did not exceed \$350.⁵ MDHHS credited Petitioner with a standard heating/utility (h/u) credit of \$559. RFT 255 (January 2021) p. 1. Generally, the

³ MDHHS also presented budgets corresponding to Petitioner's FAP eligibility before the benefit reduction. Exhibit A, pp. 7-8.

⁴ See BEM 212 for policies on determining group size for FAP benefits.

⁵ Petitioner testified her housing expenses were only \$258. Because MDHHS factored a higher expense than claimed by Petitioner, Petitioner was not harmed by the budgeting of housing expenses. Petitioner should also be aware that her FAP eligibility may be further reduced when MDHHS factors the lower amount of expenses.

h/u credit covers all utility expenses and is the maximum credit available.⁶ Adding Petitioner's housing and utility credits results in a total shelter obligation of \$909.

MDHHS only credits FAP benefit groups with an "excess shelter" deduction. The excess shelter deduction is calculated by subtracting half of Petitioner's adjusted gross income from Petitioner's total shelter obligation. Petitioner's excess shelter amount is \$459.

The FAP benefit group's net income is determined by subtracting the excess shelter deduction from the group's adjusted gross income; doing so results in \$[REDACTED] in net income for Petitioner's group. A chart in policy is used to determine the proper FAP benefit issuance. RFT 260 (October 2021) pp. 1-5. Based on Petitioner's group size and net income, Petitioner's proper FAP issuance for May 2022 is \$117: the same amount calculated by MDHHS. Thus, MDHHS properly determined Petitioner's FAP eligibility.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly determined Petitioner to be eligible for \$117 in FAP benefits beginning May 2022. The actions taken by MDHHS are **AFFIRMED**.

CG/mp



Christian Gardocki
Administrative Law Judge

⁶ 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 (October 2019) p. 15. There was no evidence of applicable exceptions.

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

