



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: October 7, 2022
MOAHR Docket No.: 22-003927
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 October 5, 2022. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Cathy Burr, supervisor, and Erin Clifford, specialist.

ISSUES

The first issue is whether Petitioner is entitled to receive cash assistance without applying.

The second 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 June 2022, Petitioner recently began employment and received biweekly income of \$████████ and \$████████.
2. As of July 2022, Petitioner was eligible to receive ongoing FAP benefits of \$250 as a group size of one person.
3. As of July 2022, Petitioner had no child support, dependent care, or medical expenses.

4. As of July 2022, Petitioner reported to MDHHS a responsibility for heating/cooling expenses and no housing expenses.
5. On July 5, 2022, MDHHS determined Petitioner to be eligible for \$120 in monthly FAP benefits beginning August 2022.
6. As of September 6, 2022, Petitioner had not applied for cash assistance benefits.
7. On September 6, 2022, Petitioner requested a hearing to dispute FAP eligibility beginning August 2022; Petitioner also claimed a right to receive cash assistance.

CONCLUSIONS OF LAW

The FIP was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. MDHHS administers the FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101-.3131. FIP policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing, in part, to dispute not receiving cash assistance. Exhibit A, pp. 3-4. MDHHS took no actions concerning Petitioner's cash assistance eligibility; MDHHS took no action because Petitioner had not applied for cash assistance.

Petitioner's testimony contended that she had a right to receive cash assistance because she received ongoing FAP benefits. No known basis exists to issue cash benefits based on a person's FAP eligibility.

Petitioner also testified that she requested a hearing about cash assistance because she is "entitled to have it all". Clients have right to apply for programs, to non-discrimination, and to request hearings (see BEM 105). Clients have no right to receive cash assistance without first applying. MDHHS properly took no action concerning Petitioner's cash assistance eligibility without Petitioner first applying.

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 BAM, BEM, and RFT.

Petitioner also requested a hearing to dispute FAP eligibility. Exhibit A, pp. 3-4. A Notice of Case Action dated July 5, 2022, stated that Petitioner's FAP eligibility would decrease to \$120 per month beginning August 2022 due to a change in net income caused by a change in employment income. Exhibit A, pp. 5-9.

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 include group size, countable monthly income, and relevant monthly expenses. MDHHS presented budgets listing all relevant budget factors and calculations.¹ Exhibit A, pp. 21-23. The notice dated July 2, 2022, also included a summary of all budget factors. Exhibit A, p. 6. During the hearing, all relevant budget factors were discussed with Petitioner.

In determining Petitioner's FAP eligibility, MDHHS factored a benefit group including only Petitioner.² Petitioner did not dispute the benefit group size of one.

For FAP benefits, MDHHS generally counts gross wages.³ BEM 501 (July 2021) p. 7. For non-child support income, MDHHS is to use past income to prospect income for the future unless changes are expected. BEM 505 (November 2021) p. 6. MDHHS is to use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month. *Id.* Stable or fluctuating biweekly employment income is converted to a monthly amount by multiplying the average income by 2.15. *Id.*, p. 8.

The Work Number documents listed employment income for Petitioner starting in June 2022. Exhibit A, pp. 14-18. In June 2022, Petitioner received biweekly income of \$[REDACTED] and \$[REDACTED].⁴ Multiplying the average of Petitioner's biweekly pays by 2.15 results in countable earned income of \$[REDACTED] (dropping cents): the same amount calculated by MDHHS. Applying a 20% credit for timely reported income results in a countable employment income of \$[REDACTED] (dropping cents). There was no evidence that MDHHS improperly calculated Petitioner's income.⁵

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).

¹ FAP budgets from July 2022 were also presented. Exhibit A, pp. 24-26. The budgets were not necessary in determining if MDHHS properly calculated Petitioner's FAP eligibility beginning August 2022.

² See BEM 212 for policies on determining group size for FAP benefits.

³ Exceptions to using gross wages include the following: earned income tax credits, flexible benefits, striker earnings, student disregards, and census worker earnings. BEM 501 (July 2017), p. 7. None of these exceptions apply to the present case.

⁴ The Work Number documents listed higher income for Petitioner in September 2022. If Petitioner's income exceeded simplified reporting income limits, the income should be reported to MDHHS. Petitioner should also be aware that her increased income may render her ineligible to receive FAP benefits.

⁵ Petitioner contended that her employment income was improperly calculated but presented no supporting evidence. Petitioner took umbrage with the phrase "receiving employment income" which Petitioner considered apt for corporations, but not for her as an individual.

Petitioner's testimony acknowledged that her group had no child support, dependent care, or medical expenses. Thus, Petitioner's non-shelter expenses total \$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 the group's countable income (\$838) results in an adjusted gross income of \$661.

MDHHS credited Petitioner with monthly housing expenses of \$0. Housing expenses of \$0 is consistent with Petitioner's reporting on a benefit application dated [REDACTED] 2022, which reported no housing expenses. Exhibit A, pp. 27-31. Petitioner claimed her housing expenses have changed since January 2022 and that they are now \$1,290 per month. Petitioner provided no corroborating evidence of a reported change while Petitioner's specialist credibly denied being aware of a change in housing expenses. Given the evidence, Petitioner was properly credited with \$0 housing expenses.

MDHHS credited Petitioner with a standard heating/utility (h/u) credit of \$559. RFT 255 (October 2021) p. 1. Generally, the h/u credit covers all utility expenses and is the maximum credit available.⁶ Adding Petitioner's housing expenses and utility credits results in total shelter expenses of \$559.

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 expenses are \$229 (rounding up to nearest dollar).

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 \$[REDACTED] in net income for Petitioner's group. A chart 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 August 2022 is \$120: the same amount calculated by MDHHS. Thus, MDHHS properly determined Petitioner's FAP eligibility.

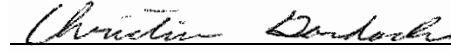
DECISION AND ORDER

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 \$120 in FAP benefits beginning August 2022. MDHHS additionally properly took no actions

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.

concerning cash assistance as Petitioner had not applied for the program. The actions taken by MDHHS are **AFFIRMED**.

CG/mp



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
MDHHS-Washtenaw-Hearings
D. Sweeney
M. Holden
MOAHR
BSC4

Via-First Class Mail :

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