



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: November 15, 2022
MOAHR Docket No.: 22-004609
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 November 10, 2022. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Ryane McArthur, specialist.

ISSUES

The first issue is whether MDHHS properly determined Petitioner's Food Assistance Program (FAP) eligibility.

The second issue is whether MDHHS failed to evaluate medical expenses submitted by Petitioner.

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 October 2022, Petitioner was an ongoing recipient of \$20 in FAP benefits as a group size of one person.
2. As of October 2022, Petitioner received \$██████████ per month in gross Retirement, Survivors, Disability Insurance (RSDI).
3. As of October 2022, Petitioner reported to MDHHS a responsibility for heating/cooling expenses and \$142 in housing expenses.

4. As of October 2, 2022, Petitioner had no child support, dependent care, or reported medical expenses.
5. On October 3, 2022, Petitioner submitted to MDHHS documentation of various medical expenses.
6. On October 11, 2022, Petitioner requested a hearing to dispute ongoing 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 verbally requested a hearing on October 3, 2022, to dispute a decrease in FAP eligibility.¹ Exhibit A, p. 3. A Notice of Case Action dated August 30, 2022, stated that Petitioner's FAP eligibility would decrease to \$20 per month beginning October 2022 due to a change in shelter and medical expenses. Exhibit A, pp. 10-14.

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 an October 2022 budget listing all relevant budget factors and calculations.² Exhibit A, pp. 15-16. The notice dated August 31, 2022, also included a summary of all budget factors. Exhibit A, p. 11. 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.³ Petitioner did not dispute the benefit group size of one.

It was not disputed that Petitioner's only income was \$[REDACTED] in gross monthly RSDI. For FAP benefits, gross RSDI is countable. BEM 503 (April 2019) p. 29. Thus, Petitioner's RSDI of \$[REDACTED] is countable in the FAP budget.

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-

¹ Clients may verbally request hearings to dispute ongoing FAP eligibility (see BAM 600).

² MDHHS also presented a FAP budget for August and September 2022 to demonstrate the differences to the disputed budget month of October 2022. Exhibit A, pp. 17-18.

³ 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 the medical expenses above \$35 for each SDV group member(s).

MDHHS factored no dependent care or child support expenses for Petitioner. Petitioner's testimony acknowledged having no such expenses.

MDHHS credibly testified that Petitioner reported having no medical expenses on a Redetermination form submitted to MDHHS in April 2022. However, Petitioner did submit medical expense documents to MDHHS on October 3, 2022. For FAP benefits, MDHHS is to act on a change reported by means other than a tape match within 10 days of becoming aware of the change. BAM 220 (April 2022) p. 7. Thus, MDHHS had through October 13, 2022, to process Petitioner's submitted medical expenses. MDHHS testimony acknowledged that the expenses had not been processed as of the date of hearing.

When Petitioner requested a hearing on October 11, 2022, MDHHS had not yet surpassed its standard of promptness for processing. Despite MDHHS violating its standard of promptness in processing medical expenses, it did not affect Petitioner's FAP eligibility as of October 2022. Changes which result in a benefit increase must be effective no later than the first allotment issued 10 days after the date the change was reported, provided any necessary verification was returned by the due date. BAM 220 (April 2022) p. 7. For Petitioner's reported change in October 2022, November 2022 is the earliest month that a change could be affected. Thus, \$0 will be credited for Petitioner's verified medical expenses in determining Petitioner's FAP eligibility for October 2022. However, as MDHHS has still not evaluated the expenses in Petitioner's FAP eligibility, an order to evaluate the expenses is proper.

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 (\$██████) results in an adjusted gross income of \$██████.

MDHHS credited Petitioner with monthly housing expenses of \$142. MDHHS also 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.⁴ Adding Petitioner's housing expenses and utility credits results in total shelter expenses of \$701.

⁴ 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.

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 \$154.

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 October 2022 is \$20: 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 \$20 in FAP benefits beginning October 2022. 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 violated its standard of promptness in processing Petitioner’s medical expenses submitted on October 3, 2022. It is ordered that MDHHS commence the following actions within 10 days of the date of mailing of this decision:

- (1) Process Petitioner’s medical expenses submitted on October 3, 2022;
- (2) Issue notice and supplements, if any, in accordance with policy.

The actions taken by MDHHS are **REVERSED**.

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-Wayne-15-Greydale-Hearings
D. Sweeney
M. Holden
MOAHR
BSC4

Via-First Class Mail :

Petitioner

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[REDACTED]
[REDACTED] MI [REDACTED]