

4. Beginning February 3, 2023, Daughter received the following gross weekly wages: \$ [REDACTED], \$ [REDACTED], \$ [REDACTED], \$ [REDACTED], and \$ [REDACTED].
5. Beginning February 3, 2023, Daughter received the following net weekly wages: \$ [REDACTED], \$ [REDACTED], \$ [REDACTED], \$ [REDACTED], and \$ [REDACTED].
6. As of February 2023, Petitioner had no child support, dependent care, or household medical expenses.
7. As of February 2023, Petitioner was responsible for \$502 in housing costs and a heating and/or cooling expense.
8. On March 1, 2023, MDHHS terminated Petitioner's FAP eligibility beginning March 2023 due to excess net income.
9. On March 1, 2023, MDHHS denied Petitioner's SER application requesting energy assistance due to excess income.
10. On March 10, 2023, Petitioner requested a hearing to dispute the closure of FAP benefits and denial of SER.

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 timely requested a hearing, in part, to dispute FAP eligibility. Exhibit A, p. 4. Petitioner's testimony clarified that she specifically disputed a stoppage to ongoing FAP benefits. A Notice of Case Action dated March 1, 2023, stated that Petitioner was ineligible for FAP benefits beginning March 2023 due to excess net income. Exhibit A, pp. 7-10.

Net income determines a group's FAP eligibility. Net income for FAP benefits is based on a client's group size, countable monthly income, and relevant monthly expenses. BEM 556 outlines the factors and calculations required to determine net income. MDHHS presented a budget listing most budget calculations.¹ Exhibit A, pp. 14-15. During the hearing, all relevant budget factors were discussed with Petitioner.

¹ MDHHS also presented a FAP budget from October 2022 when Petitioner was eligible to receive \$281 in monthly FAP benefits. Exhibit A, pp. 9-10. MDHHS emphasized that Petitioner's income was budgeted as \$0 though Petitioner was receiving unearned income since June 2022.

In determining Petitioner's FAP eligibility, MDHHS factored a benefit group of three persons: Petitioner, Daughter, and Son. Petitioner did not dispute the group size.²

MDHHS factored \$2,623 in RSDI for Petitioner's group. For FAP benefits, gross RSDI is countable. BEM 503 (April 2019) p. 29. The \$[REDACTED] was based on \$[REDACTED] in RSDI for Petitioner and \$[REDACTED] for each of Petitioner's two children. Petitioner's testimony acknowledged that MDHHS correctly counted \$[REDACTED] in monthly RSDI for each of her children (\$[REDACTED] total). Petitioner testified that she only received \$[REDACTED] in RSDI due to a recoupment of benefits unrelated to fraud. For purposes of this decision, it will be accepted that \$[REDACTED] is the proper RSDI to budget for Petitioner. Adding the RSDI for Petitioner and her children results in total RSDI of \$[REDACTED].

MDHHS also factored \$[REDACTED] in monthly employment income for Daughter. TheWorkNumber documents listed the following weekly gross wages for Daughter beginning February 3, 2023: \$[REDACTED], \$[REDACTED], \$[REDACTED], \$[REDACTED], and \$[REDACTED]. Exhibit A, pp. 20-22. MDHHS converts stable or fluctuating weekly income to a monthly amount by multiplying the average income by 4.3. *Id.*, p. 8. Multiplying the average weekly gross wages by 4.3 results in a monthly employment income of \$[REDACTED].

MDHHS allows a 20% budget credit for timely reported employment income. Applying the credit results in countable employment income of \$[REDACTED] (dropping cents) and a total countable group income (earned + unearned) of \$[REDACTED].

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). It was not disputed that Petitioner was disabled and/or aged.

Petitioner's testimony acknowledged having no child support, dependent care, or medical expenses. Thus, Petitioner's non-shelter expenses are \$0.

Petitioner's FAP benefit group size justifies a standard deduction of \$193 (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 (\$193) and countable non-shelter expenses (\$0) from Petitioner's countable income (\$[REDACTED]) results in an adjusted gross income of \$[REDACTED].

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

MDHHS testified it credited Petitioner with monthly housing expenses of \$502; Petitioner did not allege additional housing expenses. MDHHS also credited Petitioner with a standard heating/utility (h/u) credit of \$624. RFT 255 (October 2022) p. 1. Generally, the h/u credit covers all utility expenses and is the maximum credit available.³ Adding Petitioner's housing expenses and utility credits results in total shelter expenses of \$1,126.

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 \$0.

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. The net income limit for Petitioner's group size is \$1,920. RFT 250 (October 2022) p. 1. Because Petitioner's group's net income exceeds the net income limit, MDHHS properly terminated Petitioner's FAP eligibility beginning March 2023 due to excess net income.

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. MDHHS administers the SER program pursuant to MCL 400.10 and Mich Admin Code, R 400.7001-.7049. SER policies are contained in the Emergency Services Manual (ERM).

Petitioner also requested a hearing to dispute a denial of an SER application requesting assistance with an energy bill arrearage (i.e., SER-Energy). A State Emergency Relief Decision Notice dated March 1, 2023, stated that Petitioner's SER application was denied due to excess income. Exhibit A, pp. 11-13.

There are no income copayments for SER-Energy. ERM 208 (October 2021) p. 1. With respect to income, clients are either eligible or not for SER-Energy. *Id.* For a group to be eligible for SER-Energy, the combined monthly net income that is received or expected to be received by all group members in the 30-day countable income period, cannot exceed the income standard which is based on the number of group members. *Id.* If the income exceeds the income standard limit, the SER request must be denied. *Id.*

A single SER group consists of persons who occupy the same home. ERM 201 (October 2020) p. 1. It was not disputed that Petitioner resided with Son and Daughter. Thus, Petitioner's SER group size is three persons.

MDHHS is to verify and budget all non-excluded gross income the SER group expects to receive during the countable income period. ERM 206 (November 2019) p. 1. The countable income period consists of 30 days beginning with the SER application date. *Id.*

³ 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.

Evidence was not presented when Petitioner applied for SER. MDHHS also provided no evidence concerning the income budgeted for Petitioner's SER group. Even without knowledge of Petitioner's application date it can be presumed that Petitioner, Daughter, and Son each received a monthly RSDI benefit during the countable income period. For SER, MDHHS counts net RSDI. ERM 206 (November 2019) p. 2. Adding each member's net RSDI results in a total RSDI of \$[REDACTED].

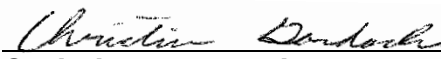
For SER, MDHHS counts net employment income. TheWorkNumber documents listed the following weekly net wages for Daughter beginning February 3, 2023: \$[REDACTED], \$[REDACTED], \$[REDACTED], \$[REDACTED], and \$[REDACTED]. Exhibit A, pp. 20-22. Counting the last four weeks of Daughter's net income would result in a countable income of \$505 (dropping cents): the lowest countable income possible.⁴ Thus, it can be concluded that Daughter's net income was at least \$[REDACTED] during the income-eligibility period.

The SER-energy income standard limit for a three-person group is \$2,878. ERM 208 (December 2022) p. 8. Adding the countable net RSDI (\$2,473) with the countable net wages (\$[REDACTED]) results in a total net income of \$[REDACTED]. Petitioner's group's net income exceeds the income limit for SER-Energy. Thus, MDHHS properly denied Petitioner's SER- Energy application due to excess income.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly terminated Petitioner's FAP eligibility beginning March 2023. It is further found that MDHHS properly denied Petitioner's SER-Energy application from an unspecified date. The actions taken by MDHHS are **AFFIRMED**.

CG/mp



Christian Gardocki

Administrative Law Judge

⁴ Even if Petitioner applied earlier than February 3, 2023, Daughter's gross weekly never fell below \$[REDACTED]. Thus, a countable income of at least \$505 is not an unfair amount of income to budget.

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-17-hearings
E. Holzhausen
J. Mclaughlin
D. Sweeney
M. Holden
MOAHR
BSC4

Via-First Class Mail :

Petitioner

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