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GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES  
SUZANNE SONNEBORN  
EXECUTIVE DIRECTOR

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DIRECTOR

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Date Mailed: September 10, 2024  
MOAHR Docket No.: 24-008796  
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 September 3, 2024. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Rebecca Scott, 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 February 2024, Petitioner was an ongoing recipient of \$██████ in monthly FAP benefits as the only member of the benefit group.
2. As of March 2024, Petitioner received approximately \$██████ in gross monthly wages.
3. As of March 2024, Petitioner received \$██████ in ongoing gross monthly Retirement Survivors, Disability Insurance (RSDI).
4. As of March 2024, Petitioner had no child support, dependent care, or medical expenses.
5. As of March 2024, Petitioner had no more than \$935 in monthly housing costs and a responsibility for heating and/or cooling expenses.

6. On May 7, 2024, MDHHS determined Petitioner was eligible to receive \$[REDACTED] in FAP benefits beginning March 2024.
7. As of June 2024, Petitioner received approximately \$[REDACTED] in gross monthly wages which was reported to MDHHS.
8. As of June 2024, Petitioner had no more than \$200 in monthly medical expenses.
9. On June 12, 2024, MDHHS determined Petitioner was eligible to receive \$[REDACTED] in FAP benefits beginning July 2024 based on \$[REDACTED] in unreported monthly wages.
10. On July 17, 2024, Petitioner verbally requested a hearing to dispute the reductions of FAP benefits.

### **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, in part, to dispute a reduction in FAP benefits to \$[REDACTED].<sup>1</sup> Exhibit A, p. 3. A Notice of Case Action dated May 7, 2024, stated that Petitioner's FAP eligibility was reduced to \$[REDACTED] in monthly FAP benefits beginning March 2024. Exhibit A, pp. 6-10.

FAP benefit amounts are based on a client's net income. Net income, for purposes of FAP benefits, is based on the 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 budget documents verifying how it calculated Petitioner's net income.<sup>2</sup> Exhibit A, pp. 16-18. During the hearing, all relevant budget factors were discussed with Petitioner.

In determining Petitioner's FAP eligibility, MDHHS factored a group size including only Petitioner. Petitioner did not dispute the group size one person.<sup>3</sup>

It was not disputed that Petitioner received \$[REDACTED] in gross monthly wages as of March 2024: the disputed benefit month. For FAP benefits, MDHHS generally counts gross

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<sup>1</sup> Clients may verbally request a hearing to dispute FAP eligibility. BAM 600 (February 2024) p. 2.

<sup>2</sup> The determination notice sent to Petitioner included a summary listing all relevant budget factors. Exhibit A, p. 7.

<sup>3</sup> See BEM 212 for policies on determining group size for FAP benefits.

wages.<sup>4</sup> BEM 501 (January 2024) p. 7. MDHHS gives a 20% credit for timely reported employment income. Applying the credit to Petitioner's wages results in countable wages of [REDACTED].

It was not disputed that Petitioner received \$[REDACTED] in gross monthly RSDI benefits. For FAP benefits, gross RSDI is countable. BEM 503 (January 2023) p. 29. Adding Petitioner's wages to the RSDI results in a running countable income of \$[REDACTED].

MDHHS uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554 (February 2024) p. 1. For groups without a senior (over 60 years old), disabled or disabled veteran (SDV) member, MDHHS considers the following expenses: shelter expenses (housing and utilities) up to a capped amount, dependent care costs, and court-ordered child support and arrearages paid to non-household members. *Id.* An SDV group that has a verified one-time or ongoing medical expense(s) of more than \$35 for an SDV person(s) will receive the standard medical deduction (SMD) of \$165. *Id.*, p. 9. If the group has actual medical expenses which are more than the SMD, the group has the option to verify their actual expenses instead of receiving the SMD. *Id.*

Petitioner 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 \$198 (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 (\$198) and countable non-shelter expenses (\$0) from Petitioner's group's countable income (\$[REDACTED]) results in an adjusted gross income of \$[REDACTED].

MDHHS credited Petitioner with monthly housing expenses of \$935 despite Petitioner acknowledging expenses of only \$750. For purposes of this decision, \$935 will be accepted as the correct amount of housing expenses. MDHHS also credited Petitioner with a standard heating/utility (h/u) credit of \$680. RFT 255 (October 2023) p. 1. Generally, the h/u credit covers all utility expenses and is the maximum credit available.<sup>5</sup> Adding Petitioner's housing expenses and utility credits results in total shelter expenses (housing + utilities) of \$1,615.

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

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<sup>4</sup> Exceptions to using gross wages include the following: earned income tax credits, flexible benefits, striker earnings, student disregards, and census worker earnings. BEM 501 (January 2024) p. 7. The evidence did not suggest any applicable exceptions for the present case.

<sup>5</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 (October 2019) p. 15. There was no evidence of applicable exceptions.

Petitioner's total shelter obligation. Petitioner's excess shelter amount is \$[REDACTED]. (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.<sup>6</sup> RFT 260 (October 2023) pp. 1-5. Based on Petitioner's group size and net income, Petitioner's proper FAP issuance for March 2024 is \$[REDACTED]; the same amount calculated by MDHHS. Thus, MDHHS properly determined Petitioner's FAP eligibility beginning March 2024.

Petitioner additionally requested a hearing to dispute a second reduction of FAP benefits. Exhibit A, p. 3. A Notice of Case Action dated June 12, 2024, stated that Petitioner's FAP benefits were reduced to \$[REDACTED] beginning July 2024. Exhibit A, pp. 11-15.

MDHHS presented budget documents demonstrating how Petitioner's FAP eligibility was counted. Exhibit A, pp. 19-21. Following a comparison of the budget documents from the earlier reduction, three changes were apparent.

First, MDHHS applied the SMD which resulted in a \$165 credit for medical expenses; Petitioner did not claim to have any medical expenses. Because the change was favorable for Petitioner, it will not be considered further.

Secondly, the July FAP budget factored [REDACTED] in gross monthly wages.<sup>7</sup> Petitioner's testimony acknowledged that the amount of increased wages was correct. Thus, no further consideration is necessary.

The third budget change related to Petitioner's wages, but not the amount. In determining July 2024 FAP eligibility, MDHHS inexplicably factored Petitioner's wages as unreported which resulted in the 20% credit for timely reported income not being applied. MDHHS provided no evidence to justify that Petitioner did not timely report income.<sup>8</sup>

Given the evidence, MDHHS failed to establish it properly determined Petitioner's wages as unreported. As a remedy Petitioner is entitled to a reprocessing of FAP benefits beginning July 2024.<sup>9</sup>

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<sup>6</sup> FAP eligibility can also be calculated by multiplying the net income by 30% and subtracting the amount from the maximum FAP issuance for the group.

<sup>7</sup> Inexplicably, the corresponding budget summary on the notice listed monthly wages of \$[REDACTED]. Exhibit A, p. 12.

<sup>8</sup> Furthermore, MDHHS factored Petitioner's wages in March as timely reported; thus, it is unknown how Petitioner's wages (presumably from the same job) could later be considered unreported.

<sup>9</sup> Petitioner's testimony indicated that MDHHS over-budgeted her medical and housing expenses. MDHHS is not precluded from the correct expenses upon reprocessing. Thus, the FAP benefit reprocessing could result in fewer FAP benefits for Petitioner.

**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 \$█ in FAP benefits beginning March 2024. Concerning the FAP reduction effective March 2024, 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 improperly determined Petitioner's FAP eligibility. It is ordered that MDHHS commence the following actions within 10 days of the date of mailing of this decision:

- (1) Reprocess Petitioner's FAP eligibility beginning July 2024 subject to the finding that Petitioner's wages were unreported; and
- (2) Issue notice and supplements, if any, in accordance with policy.

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

CG/pt

  
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**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**

Tracy Felder  
Wayne-Southwest-DHHS  
2524 Clark Street  
Detroit, MI 48209

**MDHHS-Wayne-41-Hearings@michigan.gov**

**Interested Parties**

BSC4  
M Holden  
B Cabanaw  
N Denson-Sogbaka  
MOAHR

**Via-First Class Mail:**

**Petitioner**

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