



GRETCHEN WHITMER
GOVERNOR

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

MARLON I. BROWN, DPA
DIRECTOR

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

Date Mailed: September 10, 2024
MOAHR Docket No.: 24-008923
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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 Microsoft Teams (audio only) on September 5, 2024. Petitioner was present for the hearing but did not testify. Petitioner's brother, [REDACTED], testified and participated as Petitioner's authorized hearing representative (AHR). The Michigan Department of Health and Human Services (MDHHS) was represented by Sunshine Simonson, 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 July 2024, Petitioner was an ongoing recipient of [REDACTED] in monthly FAP benefits as the only member of the benefit group.
2. As of July 2024, Petitioner received an unspecified amount of gross monthly Retirement Survivors, Disability Insurance (RSDI).
3. As of July 2024, Petitioner had no child support, dependent care, or medical expenses.
4. As of July 2024, Petitioner had not reported to MDHHS any monthly housing costs.

5. As of July 2024, Petitioner had a responsibility for heating and/or cooling expenses.
6. On July 13, 2024, MDHHS determined Petitioner was eligible to receive \$43 in FAP benefits beginning August 2024 based on \$[REDACTED] in gross monthly RSDI.
7. On August 5, 2024, Petitioner's AHR requested a hearing to dispute the determination 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's AHR requested a hearing to dispute a reduction in FAP benefits. Exhibit A, pp. 3-5. A Notice of Case Action dated July 13, 2024, stated that Petitioner's FAP eligibility would be reduced to \$43 in monthly FAP benefits beginning August 2024. Exhibit A, pp. 14-20.

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.¹ Exhibit A, pp. 11-12. During the hearing, all relevant budget factors were discussed with Petitioner's AHR.

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

It was not disputed that Petitioner received gross monthly RSDI. For FAP benefits, gross RSDI is countable. BEM 503 (January 2023) p. 29. MDHHS factored that Petitioner received \$[REDACTED] in gross monthly RSDI. After checking Petitioner's casefile, MDHHS testified it was unable to explain how or why Petitioner's RSDI was factored to be \$[REDACTED].³ Petitioner's AHR responded that Petitioner received \$[REDACTED] in monthly RSDI. Petitioner's AHR also provided no corroboration, though stated he had account statements listing \$[REDACTED] in deposits from the Social Security Administration. Notably, account statements are not acceptable verification of RSDI. BEM 503 (April 2024) p. 46.

¹ MDHHS also included FAP budget documents from June and July 2024, detailing how Petitioner's FAP eligibility was previously calculated.

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

³ MDHHS also testified a check of a data exchange with the Social Security Administration uncovered no evidence that Petitioner received RSDI.

Given the evidence, MDHHS failed to establish it properly factored Petitioner's RSDI in determining FAP eligibility. As a remedy, MDHHS will be ordered to reprocess Petitioner's FAP eligibility. Because the evidence failed to establish Petitioner's proper RSDI, no specifics on Petitioner's RSDI shall be ordered. Only for purposes of simplifying the remaining budget analysis, \$██████ will be accepted as the correct RSDI.

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: dependent care costs, court-ordered child support and arrearages paid to non-household members, and excess shelter expenses up to a capped amount. *Id.* For SDV groups, uncapped excess shelter expenses and medical expenses for SDV members are additionally considered. 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.*

It was not disputed that Petitioner was a disabled individual. Petitioner's AHR acknowledged Petitioner had 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 (\$1,201) results in an adjusted gross income of \$1,003.

MDHHS credited Petitioner with monthly housing expenses of \$0. Petitioner's AHR alleged that MDHHS erred because Petitioner paid an unspecified rent amount to his mother who was Petitioner's landlord. Petitioner's AHR admitted he was unaware if a rent obligation was ever reported to MDHHS. During the hearing, a redetermination form filed on behalf of Petitioner dated April 12, 2023 was examined; MDHHS credibly testified that the redetermination form reported no housing expenses for Petitioner. Given the evidence, it is found that Petitioner failed to report a housing expense obligation to MDHHS; thus, MDHHS properly counted Petitioner's housing expenses as \$0.

MDHHS 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.⁴ Adding Petitioner's housing expenses and utility credits results in total shelter expenses of \$680.

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 amount is \$179. (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 \$824 in net income for Petitioner’s group. A chart is used to determine the proper FAP benefit issuance.⁵ RFT 260 (October 2023) pp. 1-5. Based on Petitioner’s group size and net income, Petitioner’s FAP issuance for August 2024 is \$43: the same amount calculated by MDHHS. Thus, MDHHS properly determined Petitioner’s FAP eligibility beginning August 2024, other than failing to establish that Petitioner’s RSDI which was accurate.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS failed to establish it properly 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 August 2024 subject to the finding that MDHHS failed to establish that Petitioner’s RSDI was correctly calculated; and
- (2) Issue notice and supplements, if any, in accordance with policy.

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

CG/pt



Christian Gardocki
Administrative Law Judge

⁵ 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.

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
Tara Roland 82-17
Wayne-Greenfield/Joy-DHHS
8655 Greenfield
Detroit, MI 48228
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Interested Parties
BSC4
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N Denson-Sogbaka
MOAHR

Via-First Class Mail:

Petitioner
[REDACTED]
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[REDACTED] MI [REDACTED]

Authorized Hearing Rep.
[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]