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GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

MARLON I. BROWN, DPA
DIRECTOR

[REDACTED], MI [REDACTED]

Date Mailed: October 1, 2024
MOAHR Docket No.: 24-009708
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 telephone conference line on September 26, 2024. Petitioner appeared and was unrepresented.¹ The Michigan Department of Health and Human Services (MDHHS) was represented by Latoria Daniels, specialist, and Deidra Livernois, manager.²

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 May 2024, Petitioner was an ongoing recipient of FAP benefits with a benefit period certified through June 2024.
2. As of June 2024, Petitioner resided in a household including a spouse and five minor children, one of which received monthly Supplemental Security Income (SSI) benefits of \$953.

¹ Petitioner's hearing request specified a need for a translator. Petitioner waived his right to a translator after MDHHS and the undersigned each unsuccessfully attempted to obtain a competent translator.

² Nonan Chowdhury, specialist with MDHHS, briefly participated as an English-Bengali translator. The translator was dismissed from the hearing after difficulty translating introductions and long before any substantive matters were discussed.

3. On June 24, 2024, Petitioner reported to MDHHS having monthly mortgage expenses of \$621.43 and a responsibility for heating and/or cooling expenses.
4. On an unspecified date, Petitioner submitted to MDHHS pay documents verifying the following gross weekly wages beginning May 10, 2024: \$ [REDACTED] (with overtime excluded), \$ [REDACTED], \$ [REDACTED] and \$ [REDACTED]
5. As of June 2024, Petitioner's benefit group had no day care, medical, or child support expenses.
6. On June 27, 2024, MDHHS determined Petitioner's to be eligible for \$751 in monthly FAP benefits.
7. On August 16, 2024, Petitioner requested a hearing to dispute a termination 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 requested a hearing to dispute a determination FAP benefits. Exhibit A, pp. 3-5. A Notice of Case Action dated June 27, 2024, stated that Petitioner was eligible for \$751 in monthly FAP benefits beginning July 2024. Exhibit A, pp. 13-17. Petitioner testified he requested a hearing because he needs more monthly FAP benefits.

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 a FAP budget demonstrating all relevant budgets factors and calculations. Exhibit A, p. 18. During the hearing, all relevant budget factors were discussed with Petitioner.

In determining Petitioner's FAP eligibility, MDHHS factored a group size including Petitioner, his spouse and five children. Petitioner did not dispute the group size of seven persons.³

³ See BEM 212 for policies on determining group size for FAP benefits. Petitioner testified his wife gave birth to a child in September 2020. The newborn may affect Petitioner's future FAP eligibility but has no bearing on the disputed FAP benefit month of July 2024.

It was not disputed that one of Petitioner's children received \$957 in gross monthly SSI benefits. For FAP, MDHHS is to count a gross SSI benefit. BEM 503 (January 2023) p. 34. MDHHS correctly counted \$957 in monthly unearned income for Petitioner's group.

As part of a redetermination, MDHHS received weekly gross pay documents from Petitioner's employment. Exhibit A, pp. 9-12. The pay documents verified the following weekly gross earnings beginning May 10, 2024: \$██████ \$██████ \$██████ and \$██████ For FAP benefits, MDHHS generally counts gross wages.⁵ BEM 501 (July 2017), p. 7. MDHHS converts stable or fluctuating weekly income to a monthly amount by multiplying the average income by 4.3. BEM 505 (October 2023) p. 8. Multiplying Petitioner's average weekly wages by 4.3 results in a total gross monthly income of \$2,407 (dropping cents).⁶

MDHHS issues a 20% credit for timely reported employment income. Multiplying Petitioner's wages by 80% results in countable benefit group wages of \$1,925 (dropping cents). Adding the SSI to countable wages results in a total countable income of \$2,882.

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.* Groups with an SDV member who 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.* Groups with an SDV member also have an uncapped excess shelter expense. *Id.*

There was no evidence that the benefit group had child support, dependent care, or timely reported medical expenses.⁷ Thus, Petitioner's non-shelter expenses are \$0.

Petitioner's FAP benefit group size justifies a standard deduction of \$279 (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 (\$279) and

⁴ MDHHS disregarded \$267.75 in overtime earnings from Petitioner's check dated May 10, 2024.

⁵ 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.

⁶ Petitioner claimed a recent decrease in wages. Based on Petitioner's reporting, MDHHS was advised to send Petitioner a request for verification for consideration of the reported change to affect future eligibility.

⁷ Petitioner testified his disabled child had medical expenses not covered by Medicaid. There was no evidence on the Redetermination form (Exhibit A, pp. 6-8) that Petitioner reported his child had medical expenses not covered by Medicaid. Because Petitioner did not establish reporting the medical expenses, MDHHS cannot be faulted for not factoring the medical expenses in Petitioner's ongoing eligibility.

countable non-shelter expenses (\$0) from Petitioner's group's countable income (\$2,882) results in an adjusted gross income of \$2,603.

MDHHS credited Petitioner with monthly housing expenses of \$545. During the hearing, MDHHS acknowledged it should have factored Petitioner's reported and verified housing expenses of \$621.43.⁸ MDHHS properly 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.⁹ Adding Petitioner's proper housing expenses and utility credits results in total shelter expenses (housing + utilities of \$1,302 (rounding to highest dollar).

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 \$1 (rounding to highest dollar).¹⁰

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 \$2,602 in net income for Petitioner's group. A chart is used to determine the proper FAP benefit issuance.¹¹ RFT 260 (October 2023) pp. 1-5. Based on Petitioner's group size and net income, Petitioner's proper FAP issuance for July 2024 is \$751: the same amount calculated by MDHHS. It is found that MDHHS properly determined Petitioner's FAP eligibility beginning July 2024.

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 \$751 in FAP benefits beginning July 2024. The actions taken by MDHHS are **AFFIRMED**.

CG/nr



Christian Gardocki
Administrative Law Judge

⁸ Petitioner alleged having an additional \$20 in housing expenses; however, Petitioner's testimony contradicted the \$621.43 in housing expenses reported on a Semi-Annual Contact Report. Exhibit A, pp. 6-8

⁹ 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.

¹⁰ The \$1 excess shelter was incorrectly not counted by MDHHS; however, it ultimately made no difference in Petitioner's FAP eligibility.

¹¹ 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 :

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Caryn Jackson
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Interested Parties

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