



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

MARLON I. BROWN, DPA
DIRECTOR

[REDACTED], MI

Date Mailed: October 11, 2024
MOAHR Docket No.: 24-009932
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 October 3, 2024. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Danielle Moton, hearings facilitator. Ali Rashed of Linguistica International participated as an English-Arabic translator.

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. On July 19, 2024, Petitioner submitted to MDHHS redetermination documents reporting a household of four persons.
2. Beginning June 7, 2024, Petitioner received the following gross biweekly wages: \$ [REDACTED] \$ [REDACTED] \$ [REDACTED] \$ [REDACTED] \$ [REDACTED] and \$ [REDACTED]
3. As of August 2024, Petitioner's benefit group had no day care, medical, or child support expenses.
4. As of August 2024, Petitioner had monthly housing expenses of \$395.13 and responsibility to pay for heating and/or cooling expenses.

5. On August 13, 2024, MDHHS determined Petitioner's to be eligible for \$670 in monthly FAP benefits beginning September 2024.
6. On August 23, 2024, Petitioner requested a hearing to dispute FAP benefit eligibility.
7. On September 13, 2024, and September 27, 2024, Petitioner received respective gross biweekly wages of \$ [REDACTED] and \$ [REDACTED]

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. 3-4. A Notice of Case Action dated August 13, 2024, stated that Petitioner was eligible for \$670 in monthly FAP benefits beginning September 2024. Exhibit A, pp. 9-13. 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. 24 and 26. During the hearing, all relevant budget factors were discussed with Petitioner.

Petitioner submitted redetermination documents to MDHHS on July 19, 2024, reporting a household including his wife and two children. Exhibit A, pp. 7-8. Accordingly, MDHHS factored a FAP benefit group size of four persons.

MDHHS prospectively estimated Petitioner's employment income based on wages received in the 30 days before July 19, 2024: the date of Petitioner's redetermination document submission. During the 30-day period, Petitioner received three pays: \$ [REDACTED] \$ [REDACTED] and \$ [REDACTED] Exhibit A, pp. 17-22. MDHHS rejected Petitioner's pay of \$681.78 as unrepresentative because it was less than other pays received by Petitioner. MDHHS multiplied the average income of \$ [REDACTED] and \$ [REDACTED] by 2.15 which resulted in a monthly income of \$ [REDACTED] (dropping cents). MDHHS's prospective estimation of wages was incorrect for three reasons.

MDHHS is to prospectively estimate income using a best estimate of income expected to be received during the month (or already received). BEM 505 (October 2023) p. 5. Seek input from the client to establish an estimate, whenever possible. *Id.* Generally, for non-child

support income, MDHHS is to factor income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month. *Id.*, p. 6. The 30-day period used can begin up to 30 days before the interview date or the date the information was requested. *Id.* MDHHS is to discard a pay from the past 30 days if it is unusual and does not reflect the normal, expected pay amounts. *Id.*, p. 7. Biweekly income is converted to a monthly income by multiplying the average by 2.15. *Id.*, p. 8.

First, MDHHS provided no evidence that it consulted with Petitioner in prospecting income. As stated above, input from client should be sought. The evidence suggested that MDHHS unilaterally decided that one pay was unrepresentative.

Secondly, the pays relied on by MDHHS were more unrepresentative than the income discarded by MDHHS. MDHHS projected Petitioner's income based on the two largest pays for Petitioner since January 2024. Petitioner's income of \$[REDACTED] was one of Petitioner's lower pays, but not so low to justify excluding it while counting the two highest pays.

Thirdly, Petitioner's hearing request submitted on August 23, 2024, specifically alerted MDHHS that its income projection was high. Exhibit A, pp. 3-4. MDHHS could have accepted Petitioner's hearing request as a reported change and reprocessed Petitioner's FAP eligibility based on an updated 30-day period. Had MDHHS done so, Petitioner's income of \$[REDACTED] and \$[REDACTED] would have been factored and a much smaller monthly income would have been calculated.

Given the evidence, MDHHS improperly calculated Petitioner's wages. As a remedy, Petitioner is entitled to a reprocessing of income for September 2024 FAP eligibility. As of the hearing date, Petitioner's actual September 2024 wages are known; thus, no projection is needed. MDHHS testified that updated TheWorkNumber documents verified that Petitioner received \$818.66 on September 13, 2024, and \$741.18 on September 27, 2024. Multiplying the gross biweekly income by 2.15 results in monthly wages of \$1,676. MDHHS will be ordered to prospect Petitioner's wages accordingly. Only for simplification of the remaining budget analysis, Petitioner's wages will be accepted to be \$1,997.

MDHHS issues a 20% credit for timely reported employment income. Multiplying Petitioner's wages of \$[REDACTED] by 80% results in countable benefit group wages of \$[REDACTED] (dropping cents).

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 education (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 an SDV member; thus, medical expenses are not budgetable. There was no evidence of child support or dependent care expenses. Petitioner's non-shelter expenses are \$0.

Petitioner's FAP benefit group size justifies a standard deduction of \$208 (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 (\$208) and countable non-shelter expenses (\$0) from Petitioner's group's countable income (\$██████) results in an adjusted gross income of \$██████.

It was not disputed that Petitioner's monthly housing expenses were \$395.13. Exhibit A, p. 25. 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.¹ Adding Petitioner's proper housing expenses and utility credits results in total shelter expenses (housing + utilities of \$1,075 (rounding to nearest 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 \$381 (rounding to highest 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 \$1,008 in net income for Petitioner's group. A chart is used to determine the proper FAP benefit issuance.² RFT 260 (October 2023) pp. 1-5. Based on Petitioner's group size and net income, Petitioner's proper FAP issuance for September 2024 is \$670: the same amount calculated by MDHHS. Thus, it is found that MDHHS properly determined Petitioner's FAP eligibility beginning September 2024 other than the calculation of Petitioner's income.

¹ 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.

² 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.

DECISION AND ORDER

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 September 2024 subject to the finding that Petitioner's projected wages shall be based on Petitioner's wages of \$ [REDACTED] on September 13, 2024, and \$ [REDACTED] on September 27, 2024; and
- (2) Issue notice and supplements, if any, in accordance with policy.

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

CG/nr



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

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Interested Parties

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