



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

MARLON I. BROWN, DPA
DIRECTOR

[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: October 15, 2024
MOAHR Docket No.: 24-010159
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 10, 2024. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Angela Ware, 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. From May through August 2024, Petitioner received \$ [REDACTED] in gross monthly child support.
2. As of September 2024, Petitioner was an ongoing recipient of FAP benefits as a member of a household with three children. No persons in the household were over the age of 60 years, disabled, or disabled veterans.
3. As of September 2024, Petitioner received \$ [REDACTED] in gross monthly income.
4. As of September 2024, Petitioner had no day care or child support expenses.

5. As of September 2024, Petitioner reported to MDHHS a monthly housing obligation of \$1,350 and a responsibility to pay for heating and/or cooling.
6. On September 5, 2024, Petitioner requested a hearing to dispute the termination of FAP benefits.
7. On September 10, 2024, MDHHS approved Petitioner for \$222 in FAP benefit beginning September 2024.
8. On September 11, 2024, MDHHS determined Petitioner was eligible for \$152 in FAP benefits beginning October 2024.

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 an alleged termination of FAP benefits. Exhibit A, pp. 3-4. Petitioner testified she had not received FAP benefits since August 2024. MDHHS responded that Petitioner received FAP benefits of \$709 in August 2024, \$222 in September 2024, and \$152 in October 2022. Petitioner did not dispute MDHHS's hearing testimony. The evidence established that MDHHS favorably resolved Petitioner's hearing request.

After accepting that MDHHS issued FAP benefits in August, September, and October 2024, Petitioner pivoted to disputing the amount of FAP benefits. Arguably, Petitioner should request a separate hearing to dispute FAP eligibility determined after the hearing request dated September 5, 2024. Nevertheless, the analysis will proceed to address Petitioner's FAP eligibility for October 2024. A Notice of Case Action dated September 11, 2024, approved Petitioner for \$152 in FAP benefits beginning October 2024. Exhibit A, pp. 7-13.

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. A budget summary from the Notice of Case Action listed all relevant income and expenses. During the hearing, all relevant budget factors were discussed with Petitioner.

In determining Petitioner's FAP eligibility, MDHHS factored a benefit group size of four people. Petitioner did not dispute the benefit group size.¹

It was not disputed that one of Petitioner's children received \$462 in monthly child support each of the past four months before September 2024: the month that MDHHS determined FAP eligibility.² Child support is income to the child for whom the support is paid. BEM 503 (April 2024) p. 6. MDHHS is to calculate child support by averaging the last three full months paid, unless changes are expected. BEM 505 (October 2023) p. 4. MDHHS properly factored \$462 in child support for the benefit group.³

MDHHS factored Petitioner's gross monthly wages to be \$[REDACTED]. For FAP benefits, MDHHS generally counts gross wages.⁴ BEM 501 (July 2017), p. 7. Petitioner did not dispute that her gross monthly wages were \$[REDACTED]. MDHHS issues a 20% credit for timely reported employment income. Multiplying Petitioner's wages by 80% results in countable benefit group wages of \$2,925 (dropping cents). Adding the child support of \$462 to countable wages results in a total 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.* 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.*

It was not disputed that Petitioner's group had no SDV members. Thus, medical expenses are not countable. Petitioner acknowledged having no child support or dependent care expenses. Petitioner's non-shelter expenses are \$0.

Petitioner's FAP benefit group size justifies a standard deduction of \$217 (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

¹ See BEM 212 for policies on determining group size for FAP benefits.

² Petitioner contended that child support fluctuated. Perhaps child support payments have fluctuated from before four months earlier and will again. Petitioner was advised that she may report to MDHHS if child support income is expected to decrease for consideration in future benefit months.

³ Petitioner expressed displeasure at child support being countable income. Petitioner testified that the income should be considered her child's income. MDHHS does count child support as child's income, but it is still countable because the child is a benefit group member.

⁴ 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.

group's adjusted gross income. Subtracting the standard deduction (\$217) and countable non-shelter expenses (\$0) from Petitioner's group's countable income (\$██████) results in an adjusted gross income of \$██████.

MDHHS credited Petitioner with monthly housing expenses of \$1,350. Petitioner did not allege additional housing expenses. MDHHS also credited Petitioner with a standard heating/utility (h/u) credit of \$664. RFT 255 (October 2024) p. 1. Generally, the h/u credit covers all utility expenses and is the maximum credit available.⁵ Adding Petitioner's housing expenses and utility credits results in total shelter expenses of \$2,014.

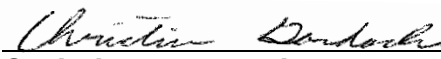
MDHHS only credits FAP benefit groups with an "excess shelter" expense. The excess shelter expense is calculated by subtracting half of Petitioner's adjusted gross income from Petitioner's total shelter obligation. Petitioner's excess shelter amount is \$429.

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 \$2,741 in net income for Petitioner's group. A chart is used to determine the proper FAP benefit issuance.⁶ RFT 260 (October 2024) pp. 1-5. Based on Petitioner's group size and net income, Petitioner's proper FAP issuance for October 2024 is \$152: the same amount calculated by MDHHS. Thus, MDHHS properly determined Petitioner's FAP eligibility beginning October 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 \$152 in FAP benefits beginning October 2024. The actions taken by MDHHS are **AFFIRMED**.

CG/nr



Christian Gardocki

Administrative Law Judge

⁵ 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.

⁶ 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
Tracy Felder
Wayne-Southwest-DHHS
2524 Clark Street
Detroit, MI 48209
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Interested Parties
BSC4
M. Holden
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B. Cabanaw
MOAHR

Via-First Class Mail :

Petitioner
[REDACTED]
[REDACTED], MI [REDACTED]