



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
LANSING

MARLON I. BROWN, DPA  
DIRECTOR

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

Date Mailed: November 7, 2024  
MOAHR Docket No.: 24-011299  
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 31, 2024. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Marcella Towns, hearings coordinator.

**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 \$231 in monthly FAP benefits as the only member of the benefit group.
2. On July 24, 2024, MDHHS received Petitioner's medical bill listing a \$135 office visit expense from a date of service of June 12, 2024.
3. As of August 2024, Petitioner received \$1,491 in ongoing gross monthly Retirement Survivors, Disability Insurance (RSDI).
4. As of August 2024, Petitioner had no child support or dependent care expenses.

5. As of August 2024, Petitioner had reported to MDHHS obligations for annual property taxes of \$1662.03 and \$76.16 for monthly property insurance.
6. As of August 2024, Petitioner reported to MDHHS a responsibility for heating and/or cooling expenses.
7. On August 26, 2024, MDHHS determined Petitioner was eligible to receive \$23 in FAP benefits beginning September 2024 based on \$0 medical expenses and \$178.57 in monthly housing expenses.
8. On October 4, 2024, Petitioner requested a hearing to dispute the reduction in 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 reduction in FAP benefits to \$23. Exhibit A, pp. 3-5. A Notice of Case Action dated August 26, 2024, stated that Petitioner's FAP eligibility was reduced to \$23 in monthly FAP benefits beginning September 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>1</sup> Exhibit A, pp. 19-21. 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>2</sup>

It was not disputed that Petitioner's only income derived from \$1,491 in gross monthly RSDI benefits. For FAP benefits, gross RSDI is countable. BEM 503 (January 2023) p. 29. Petitioner. Petitioner's countable income for FAP is \$1,491.

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),

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<sup>1</sup> The determination notice sent to Petitioner included a summary listing all relevant budget factors. Exhibit A, p. 7.

<sup>2</sup> See BEM 212 for policies on determining group size for FAP benefits.

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 or dependent care expenses. Based on Petitioner's receipt of RSDI, it is presumed that Petitioner is senior and/or disabled; thus, medical expenses are countable.

MDHHS is to count allowable verified medical expenses at redetermination. BEM 554 (February 2024) p. 9. Countable medical bills must not be overdue; thus, they must either be currently billed, currently incurred, or under a payment arrangement before the bill became overdue. *Id.* Generally, MDHHS requires a date of service to verify that the bill is not overdue.

MDHHS initially contended that Petitioner failed to timely return verification of medical expenses. Various receipts submitted by Petitioner to MDHHS on September 30, 2024, verified payments by Petitioner for medical expenses.<sup>3</sup> Exhibit A, pp. 14-18. However, Petitioner's payments did not verify dates of service; thus, the receipts failed to verify that the medical bills were not overdue.

During the hearing, MDHHS was asked about documents returned by Petitioner before September 2024. In response, MDHHS discovered that Petitioner submitted a \$135 medical bill dated July 24, 2024, listing a date of service of June 12, 2024. MDHHS acknowledged that the bill was not overdue and should have been applied in Petitioner's FAP budget. Because Petitioner verified at least a one-time medical bill exceeding \$35, Petitioner is minimally entitled to the SMD of \$165.

Given the evidence, MDHHS improperly failed to issue to Petitioner the SMD of \$165. As an administrative remedy, MDHHS will be ordered to reprocess Petitioner's FAP eligibility and to include the SMD; only to simplify the remaining budget analysis, it will be accepted that Petitioner was properly issued no credit for medical expenses.

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 (\$1,491) results in an adjusted gross income of \$1,293.

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<sup>3</sup> MDHHS also testified that documents submitted by Petitioner on August 22, 2024 failed to verify a medical expense that was not overdue.

MDHHS credited Petitioner with monthly housing expenses of \$178.57. MDHHS did not verify how the housing expenses were calculated, though it suggested it was derived from Petitioner's reporting of \$1,326.84 in summer taxes from redetermination documents submitted in August 2024 and an unspecified expense for property insurance.<sup>4</sup> Dividing Petitioner's annual summer taxes by 12 results in average monthly expenses of \$110.57. Petitioner submitted documentation verifying monthly property taxes of \$76.16. Exhibit 1, p. 13. Adding the housing expenses results in a total of \$186.73. Given the evidence, MDHHS failed to verify establish it properly calculated a lower amount of housing expenses.

Furthermore, MDHHS failed to establish why it failed to factor Petitioner's previously verified winter tax obligation of \$335.19. Exhibit 1, p. 14. MDHHS suggested that the expenses were not recently verified by Petitioner; however, Petitioner has no such policy obligation. MDHHS is to verify shelter expenses at application and when a change is reported only if considered questionable. BEM 554 (February 2024) pp. 15-16. Petitioner credibly testified she previously reported and verified winter taxes to MDHHS. Unless, Petitioner reported a questionable change, MDHHS was required to continue budgeting Petitioner's previously reported winter taxes.<sup>5</sup>

Given the evidence, MDHHS improperly failed to properly determine Petitioner's housing expenses. As a remedy, MDHHS will be ordered to rely on Petitioner's most recently reported and/or verified housing expenses.<sup>6</sup> Again, only to simplify the remaining budget analysis, it will be accepted that MDHHS correctly calculated Petitioner's expenses.

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.<sup>7</sup> Adding Petitioner's housing expenses and utility credits results in total shelter expenses (housing + utilities) of \$859 (rounding up 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 \$213. (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 \$1,080 in net income

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<sup>4</sup> Petitioner also submitted verification of the expense for the hearing. Exhibit 1, p. 17.

<sup>5</sup> After the hearing, Petitioner's casefile revealed that winter taxes of \$335.19 were verified on February 9, 2024.

<sup>6</sup> Based on documents submitted during the hearing, the monthly expense should be \$214.66

<sup>7</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.

for Petitioner's group. A chart is used to determine the proper FAP benefit issuance.<sup>8</sup> 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 \$23: the same amount calculated by MDHHS. Given the evidence, MDHHS properly determined Petitioner's FAP eligibility beginning September 2024 other than factoring Petitioner's medical and housing expenses.

### **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 following findings:
  - a. Petitioner verified non-overdue medical expenses on July 24, 2024 for \$135;
  - b. MDHHS improperly excluded previously reported property taxes totaling \$1,662.03 per year and \$76.16 for monthly property insurance; 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

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<sup>8</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.

**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**

Susan Noel  
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**Interested Parties**

BSC4  
M. Holden  
N. Denson-Sogbaka  
B. Cabanaw  
MOAHR

**Via-First Class Mail :**

**Petitioner**

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