



GRETCHEN WHITMER  
GOVERNOR

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

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DIRECTOR

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██████████, MI ██████████

Date Mailed: December 19, 2024  
MOAHR Docket No.: 24-012732  
Agency No.: ██████████  
Petitioner: ██████████ ██████████

**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 on December 12, 2024; the parties participated by telephone. Petitioner appeared 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 FAP benefits as a member of a 6-person household. No persons in the household were over the age of 60 years, disabled, or disabled veterans.
2. As of July 2024, Petitioner received \$██████████ in gross weekly income.
3. As of July 2024, Petitioner had no day care or child support expenses.
4. On July 2, 2024, Petitioner reported to MDHHS a monthly mortgage expense and a responsibility to pay for heating and/or cooling. Petitioner additionally reported having a home equity loan obligation.

5. On July 17, 2024, MDHHS determined Petitioner was eligible for \$316 in FAP benefits beginning August 2024 without factoring Petitioner's home equity loan of expense of \$160.65 per month.
6. On an unspecified date, MDHHS supplemented FAP benefits to Petitioner for August and September 2024 after failing to factor Petitioner's home equity loan expense.
7. On November 13, 2024, Petitioner requested a hearing to dispute the amount of FAP benefits from October and November 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 a determination of FAP benefits. Exhibit A, pp. 3-5. A Notice of Case Action dated July 17, 2024, stated that Petitioner was eligible to receive \$316 in FAP benefits beginning July 2024. Exhibit A, pp. 12-16. MDHHS increased Petitioner's FAP eligibility to \$364 per month beginning August 2024 after acknowledging it failed to factor a previously reported home equity credit. Beginning October 2024, MDHHS decreased Petitioner's FAP eligibility to \$316 per month. Petitioner disputed the determination of \$316 in FAP benefits for October and November 2024.<sup>1</sup>

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 FAP budget for October 2024 listed all relevant factors and calculations. Exhibit A, pp. 31-32 and 49. During the hearing, all relevant budget factors were discussed with Petitioner.

In determining Petitioner's FAP eligibility, MDHHS factored a benefit group size of six. Petitioner did not dispute the benefit group size.<sup>2</sup>

Pay documents from June 2024 verified that Petitioner received weekly gross income of \$██████████ Exhibit A, pp. 33-41. For FAP benefits, MDHHS generally counts gross

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<sup>1</sup> A Notice of Case Action dated November 17, 2024, stated that Petitioner was eligible for \$369 in FAP benefits beginning December 2024. Exhibit A, pp. 17-21. Petitioner did not dispute FAP eligibility beginning December 2024.

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

wages.<sup>3</sup> BEM 501 (January 2024) p. 7. For the FAP, 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 \$ [REDACTED] (dropping cents): the same amount calculated by MDHHS.

MDHHS issues a 20% credit for timely reported employment income. Multiplying Petitioner's wages by 80% results in countable benefit group wages of \$3,970.

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.*

Petitioner testified that he had student loan, grocery, and credit card expenses. Petitioner also testified his teen children eat more than their fair share of food. Petitioner's testimony implied that he should receive budget credits for said expenses. MDHHS policy does not allow for FAP budget credits for student loans, credit cards, groceries, or larger than average appetites within the benefit group.

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 \$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 countable non-shelter expenses (\$0) from Petitioner's group's countable income (\$3,970) results in an adjusted gross income of \$ [REDACTED]

MDHHS credited Petitioner with monthly housing expenses of \$1,291.67 for a mortgage. Petitioner alleged that MDHHS should have additionally factored a \$160.65 expense for a home equity line of credit. During the hearing, it was thought that Petitioner failed to timely report the expense to affect FAP eligibility for October 2024.

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<sup>3</sup> Exceptions to using gross wages include the following: earned income tax credits, flexible benefits, striker earnings, student disregards, and census worker earnings. BEM 501 (January 2024) p. 7. None of these exceptions apply to the present case.

However, Petitioner reported the expense on redetermination documents dated July 2, 2024. Exhibit A, pp. 43-44.

Home equity loan expenses are countable. BEM 554 (July 2024) p. 15. Verification of shelter expenses are required if questionable. *Id.* Changes which result in an increase in the household's FAP benefits must be effective no later than the first allotment issued 10 days after the date the change was reported, provided any necessary verification was returned by the due date. BAM 220 (November 2023) p. 7.

Presumably, MDHHS either did not require verification of the \$160.65 home equity loan expense or it possessed verification because it acknowledged including the \$160.65 expense in Petitioner's FAP budgets for August and September 2024. MDHHS provided no valid explanation for excluding the expense from October and November 2024 budgets.<sup>4</sup>

Given the evidence, MDHHS improperly failed to credit Petitioner with a \$160.65 credit for a home equity loan. As a remedy, MDHHS will be ordered to reprocess Petitioner's FAP eligibility for October and November 2024 to include the credit. Only for purposes of simplifying the remaining analysis, it will be accepted that MDHHS properly excluded the credit.

MDHHS credited Petitioner with a standard heating/utility (h/u) credit of \$680. RFT 255 (October 2024) p. 1. Generally, the h/u credit covers all utility expenses and is the maximum credit available.<sup>5</sup> Adding Petitioner's mortgage expenses and utility credits results in total shelter expenses of \$1,972: the same amount calculated by MDHHS. Exhibit A, p. 49.

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 \$127.

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 \$3,564 in net income for Petitioner's group. A chart is used to determine the proper FAP benefit issuance.<sup>6</sup> 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 \$316: the same amount calculated by MDHHS. Given the evidence, MDHHS properly determined Petitioner's FAP eligibility for October

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<sup>4</sup> MDHHS's Hearing Summary suggested Petitioner received a supplement of FAP benefits for October and November 2024. Exhibit A, p. 1. However, documentation of Petitioner's past FAP issuances listed no such supplement was issued. Exhibit A, p. 26.

<sup>5</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.

<sup>6</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.

and November 2024 other than improperly failing to count Petitioner's home equity loan expense.

**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 from October and November 2024 subject to the finding that MDHHS improperly failed to credit Petitioner with a \$160.65 credit for a home equity loan; 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**

Susan Noel  
Wayne-Inkster-DHHS  
26355 Michigan Ave  
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**MDHHS-Wayne-19-Hearings@michigan.gov**

**Interested Parties**

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M. Holden  
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B. Cabanaw  
MOAHR

**Via-First Class Mail :**

**Petitioner**

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