



GRETCHEN WHITMER
GOVERNOR

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

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████████████████████, MI ██████████

Date Mailed: January 22, 2025
MOAHR Docket No.: 24-013175
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 January 16, 2025; the parties participated by telephone. Petitioner appeared and was represented. ██████████ ██████████ Petitioner's mother, testified and participated as Petitioner's authorized hearing representative (AHR). The Michigan Department of Health and Human Services (MDHHS) was represented by Michelle Peguse, specialist, and Jessica Rush, lead child support 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. As of July 2024, Petitioner was an ongoing recipient of FAP benefits as a member of a 3-person benefit group which included two minor children.
2. On July 29, 2024, Petitioner reported to MDHHS monthly rental expenses of \$800.
3. As of October 2024, Petitioner's benefit group had no medical, day care, or child support expenses.

4. As of October 2024, Petitioner was responsible for a heating and/or cooling obligation.
5. As of October 2024, Petitioner received gross monthly Supplement Security Income (SSI) and Family Independence Program (FIP) benefits totaling at least \$1,161.
6. On November 19, 2024, MDHHS determined Petitioner was eligible for \$536 in FAP benefits beginning October 2024.
7. On November 20, 2024, Petitioner requested a hearing to dispute the amount of FAP benefits beginning October 2024. Petitioner also disputed a termination of Family Independence Program (FIP) benefits and Medicaid eligibility for her son.
8. On January 16, 2025, Petitioner's AHR withdrew the disputes over FIP benefits and Medicaid.

CONCLUSIONS OF LAW

The FIP was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. MDHHS administers the FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101-.3131. FIP policies are contained in the BAM, BEM, and RFT.

Petitioner requested a hearing, in part, to dispute a termination of FIP benefits. Exhibit A, pp. 4-6. During the hearing, Petitioner's AHR acknowledged that MDHHS favorably resolved the dispute by reinstating FIP benefits; as a result, Petitioner's AHR withdrew the hearing request concerning FIP eligibility. Concerning FIP benefits, Petitioner's hearing request will be dismissed.

The MA program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. MDHHS administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MA policies are contained in the BAM, BEM, and RFT.

Petitioner also requested a hearing to dispute her child's MA eligibility. Exhibit A, pp. 4-6. During the hearing, Petitioner's AHR acknowledged that MDHHS partially resolved the dispute by issuing Medicaid to Petitioner's child. Petitioner's AHR also acknowledged a second dispute over the child's medical bills need not proceed to a hearing. Petitioner's AHR withdrew the dispute over MA. Thus, Petitioner's hearing request disputing MA will also be dismissed due to withdrawal.

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 lastly requested a hearing to dispute the amount of FAP benefits received. Petitioner's hearing request was vague to the specific dispute, but after hearing MDHHS testimony of past FAP issuances, Petitioner's AHR alleged that FAP eligibility beginning October 2024 was disputed. A Notice of Case Action dated November 19, 2024, stated that Petitioner was eligible for \$536 in FAP benefits beginning October 2024. Exhibit A, pp. 17-23.

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. Documentation such as a FAP budget was not presented; however, MDHHS credibly testified to all budget factors. During the hearing, all relevant budget factors were discussed with Petitioner.

In determining Petitioner's FAP eligibility for October 2024, MDHHS factored a benefit group size of three persons. Petitioner did not dispute the benefit group size.¹

MDHHS factored \$1,161 in unspecified unearned income in determining FAP eligibility. Specifics of the amount were not discussed other than the amount being partially based on SSI for Petitioner and FIP benefits. For FAP, MDHHS is to count a gross SSI benefit. BEM 503 (January 2023) p. 34. For FAP, FIP benefits are considered the unearned income for the head of household. Petitioner did not dispute that \$1,161 as the proper unearned income amount.²

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

¹ See BEM 212 for policies on determining group size for FAP benefits. Initially, it was thought that Petitioner might be a disqualified group member due to failing to cooperate for establishing paternity for a child. As the hearing unfolded, the evidence supported that child support disqualification was not a relevant issue.

² Petitioner's AHR acknowledged that Petitioner's income may have even been higher.

receiving the SMD. *Id.* Groups with an SDV member also have an uncapped excess shelter expense. *Id.*

It was not disputed that Petitioner was disabled and no other persons in the benefit group were SDV members; however, Petitioner also did not allege having any medical expenses. 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 \$204 (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 (\$204) and countable non-shelter expenses (\$0) from Petitioner's group's countable income (\$1,161) results in an adjusted gross income of \$957.

MDHHS credited Petitioner with monthly housing expenses of \$0. Petitioner's AHR testified that her daughter pays \$800 in monthly rent.³ MDHHS documented that Petitioner reported moving on July 29, 2024. Exhibit A, p. 29. Presumably, a rent expense of \$800 was reported on the same date. MDHHS appeared to factor a rent of \$0 after a Shelter Verification mailed to Petitioner was undeliverable. However, a comment by MDHHS staff acknowledged that the Shelter Verification form was not sent to Petitioner's updated address. Exhibit A, p. 29. If MDHHS considered Petitioner's rent to be unverified, MDHHS failed to acknowledge its error in sending requested verification to Petitioner's previous address. Furthermore, MDHHS failed to explain why Petitioner's rent needed to be verified at all. MDHHS is to only verify shelter expenses at application and when a change is reported, if questionable. MDHHS did not explain why Petitioner's reported rent obligation was questionable.

Given the evidence, MDHHS improperly failed to credit Petitioner with a rent of \$800. As a remedy, MDHHS will be ordered to reprocess Petitioner's FAP eligibility for October 2024 based on housing expenses of \$800. However, only for purposes of simplifying the remaining analysis, it will be accepted that MDHHS properly credited Petitioner with a rent of \$0.

MDHHS 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.⁴ Adding housing expenses and utility credits results in total shelter expenses of \$664: the same amount calculated by MDHHS.

³ Petitioner's mother testified that she and Petitioner split a total monthly rent of \$1,600. Petitioner may be eligible for a rent credit of \$1,600 if she is responsible to the landlord for the entire payment amount (see BEM 554).

⁴ 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.

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 \$186.

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 \$771 in net income for Petitioner’s group. A chart is used to determine the proper FAP benefit issuance.⁵ 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 \$536: the same amount calculated by MDHHS. Given the evidence, MDHHS properly determined Petitioner’s FAP eligibility other than counting 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 October 2024 subject to the finding that MDHHS improperly failed to credit Petitioner with \$800 in housing expenses;
- (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

⁵ 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 :

Department Representative
Office of Child Support (OCS)-MDHHS
235 S. Grand Avenue Ste. 810
Lansing, MI 48903
DHS-OCS-Admin-Hearings@michigan.gov

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