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DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES  
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██████████, MI ██████████

Date Mailed: January 13, 2025  
MOAHR Docket No.: 24-013486  
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 9, 2025; the parties participated by telephone. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by LuTrina Webster, specialist.

**ISSUE**

The issue is whether MDHHS properly terminated 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 October 2024, Petitioner was an ongoing recipient of FAP benefits as the only benefit group member.
2. On ██████████ ██████████ 2024, Petitioner submitted to MDHHS an application reporting a household that included his two children, ██████████ ██████████ (hereinafter, “Son”), and ██████████ ██████████ (hereinafter, “Daughter”). Exhibit A, pp. 8-21.
3. As of November 2024, Petitioner received \$2,144.70 in gross monthly Retirement, Survivors, Disability Insurance (RSDI).

4. As of November 2024, Son and Daughter each received \$536.00 in gross monthly RSDI benefits.
5. As of November 2024, Petitioner had no day care or dependent care expenses.
6. As of November 2024, Petitioner had a responsibility for a monthly Medicare premium of \$174.70.
7. As of November 2024, Petitioner had \$208.33 in monthly housing costs and an ongoing obligation for heating and/or cooling expenses.
8. On November 7, 2024, MDHHS terminated Petitioner's FAP eligibility beginning December 2024 due to excess net income.
9. On December 2, 2024, Petitioner verbally requested a hearing to dispute the termination of 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 verbally requested a hearing to dispute a termination of FAP benefits.<sup>1</sup> Exhibit A, pp. 4-6. A Notice of Case Action dated November 7, 2024, stated that Petitioner's FAP eligibility would end December 2024 due to excess net income. Exhibit A, pp. 24-28.

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. Exhibit A, p. 25. During the hearing, all relevant budget factors were discussed with Petitioner.

In determining Petitioner's FAP eligibility, MDHHS factored a benefit group including Petitioner, Son and Daughter.<sup>2</sup> Petitioner did not dispute the benefit group size of three persons.<sup>3</sup>

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<sup>1</sup> Clients may verbally request hearing to dispute FAP eligibility. BAM 600 (June 2024) p. 2.

<sup>2</sup> Petitioner's proper FAP benefit group size probably should be one. Petitioner acknowledged that Daughter lives with him less than 50% of the time and that the mother of Son and Daughter has legal custody of both children. Policy states that a parent with more than 50% custody is the child's primary caretaker and that the child should not be in the benefit group of the person who is not the primary

It was not disputed that Petitioner received \$2,144.70 in gross monthly RSDI benefits. For FAP benefits, gross RSDI is countable. BEM 503 (January 2023) p. 29. It was not disputed that Son and Daughter each received \$536.00 in RSDI. MDHHS factored Son and Daughter's total RSDI of \$1,072 in determining the group's FAP eligibility. Petitioner contended that MDHHS improperly included Son and Daughter's RSDI in the FAP budget because Son and Daughter's mother receives the income as their payee.

Income paid to an individual acting as a representative for another individual is not the representative's income. BEM 500 (April 2022) p. 8. The income is the other individual's income. *Id.* Petitioner's contention that his children's RSDI should be excluded is unpersuasive because the income is countable for the children and not the payee. Thus, the \$1,072.00 in RSDI for Petitioner's children is countable rendering the total RSDI to be \$3,216.00 (dropping cents).

MDHHS uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554 (July 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 was disabled; thus, medical expenses are countable. The evidence supported that Petitioner has monthly medical expenses of \$174.70 for a Medicare premium. Thus, Petitioner is entitled to the SMD of \$165. Petitioner acknowledged having no child support or dependent care expenses.<sup>4</sup> Thus, Petitioner's non-shelter expenses are \$165.

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 (\$165) from Petitioner's group's countable income (\$3,216) results in an adjusted gross income of \$2,847.

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caretaker. BEM 212 (March 2024) p. 3. Nevertheless, because Petitioner wanted Son and Daughter in his benefit group, it will be accepted that the benefit group is three persons.

<sup>3</sup> See BEM 212 for policies on determining group size for FAP benefits.

<sup>4</sup> MDHHS counted monthly child support expenses of \$101. The child support payments were not factored above based on Petitioner's testimony that the expenses stopped.

MDHHS credited Petitioner with monthly housing expenses of \$208.33; Petitioner did not dispute the housing expenses. MDHHS credited Petitioner with a standard heating/utility (h/u) credit of \$664.<sup>5</sup> RFT 255 (October 2024) p. 1. Generally, the h/u credit covers all utility expenses and is the maximum credit available.<sup>6</sup> Adding Petitioner's housing expenses and utility credits results in total shelter expenses of \$872 (dropping cents).

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 \$0.

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 \$2,847 in net income for Petitioner's group. A chart is used to determine the proper FAP benefit issuance.<sup>7</sup> RFT 260 (October 2024) pp. 1-5. Based on Petitioner's group size and net income, Petitioner's proper FAP issuance for December 2024 is \$0. Thus, MDHHS properly terminated Petitioner's FAP eligibility beginning December 2024.

### **DECISION AND ORDER**

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly terminated Petitioner's FAP eligibility beginning December 2024. The actions taken by MDHHS are **AFFIRMED**.

CG/nr



**Christian Gardocki**

Administrative Law Judge

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<sup>5</sup> Petitioner testified she does not pay for heating and/or cooling thereby suggesting that Petitioner is not entitled to receive the h/u standard credit. For purposes of this decision, it will be accepted that Petitioner is eligible for the h/u credit.

<sup>6</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>7</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**  
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