



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: July 23, 2020
MOAHR Docket No.: 20-003486
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: John Markey

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 telephone hearing was held on July 22, 2020 from Detroit, Michigan. Petitioner appeared and represented himself. The Department of Health and Human Services (Department) was represented by Whitney Walker, Eligibility Specialist. During the hearing, a 13-page packet of documents was offered and admitted into evidence as Exhibit A.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefits case, effective June 1, 2020?

Did the Department properly close Petitioner's State Disability Assistance (SDA) benefits case, effective June 1, 2020?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On [REDACTED] 2020, Petitioner submitted to the Department an application for FAP and SDA benefits. The application was approved.
2. At the time of Petitioner's application with the Department, Petitioner had an application for unemployment benefits pending with the Unemployment Insurance Agency.

3. In early May 2020, Petitioner was approved for unemployment benefits, retroactive to early April 2020. Exhibit A.
4. On May 11, 2020, Petitioner notified the Department that he began receiving unemployment benefits, which totaled \$■■■■ per week, with \$■■■■ of that total attributable to the Pandemic Unemployment Assistance program. Exhibit A.
5. On May 11, 2020, the Department issued to Petitioner a Notice of Case Action informing Petitioner that both the FAP and SDA benefits cases would be closing, effective June 1, 2020, as a result of the Department's determination that Petitioner's income exceeded the limit for program eligibility.
6. On ■■■■, 2020, Petitioner submitted to the Department a written request for hearing objecting to the Department's action.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

In this case, Petitioner challenged the closure of his FAP and SDA benefits cases, effective June 1, 2020. Just prior to receiving the May 11, 2020 Notice of Case Action informing Petitioner of the actions, Petitioner began receiving unemployment benefits of \$■■■■ per week, with \$■■■■ each week attributable to the temporary Pandemic Unemployment Assistance. Petitioner continued to receive that income for all times relevant to the instant case.¹ Both decisions were prompted by the Department's determination that Petitioner's income from unemployment rendered Petitioner income ineligible for the benefits.

FAP CLOSURE

The Food Assistance Program (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. The Department (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

¹ The evidence on the record suggests that Petitioner's unemployment benefits expired in June 2020. Whenever they may have stopped, it was after any time relevant to the instant case. If Petitioner's income has changed and he would like his eligibility assessed under the current circumstances, he must file another application for benefits.

In order for a group size of one such as Petitioner's to be eligible for FAP benefits, that group must be under the gross income limit. BEM 550 (January 2017), p. 1. The gross income limit applicable to Petitioner is \$1,354 per month. RFT 250 (October 2019), p. 1. During the relevant time period, Petitioner was receiving \$■■■■ per week in unemployment income, which amounts to approximately \$■■■■ per month. As Petitioner's income greatly exceeds the monthly limit of \$1,354, Petitioner is ineligible for FAP benefits. Thus, the Department correctly determined that Petitioner's gross income exceeds the limit for program eligibility and closed his FAP benefits case.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it closed Petitioner FAP benefits case, effective June 1, 2020.

SDA CLOSURE

The State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. The Department of Health and Human Services (formerly known as the Department of Human Services) administers the SDA program pursuant to 42 CFR 435, MCL 400.10 and Mich Admin Code, R 400.3151-.3180.

To receive SDA, a person must be disabled, caring for a disabled person, or age 65 or older. BEM 261 (April 2017), p. 1. A person is disabled for SDA purposes if he or she has AIDS, is certified as unable to work for at least 90 days, resides in a qualified Special Living Arrangement facility, or receives other specified disability-related benefits or services, including those from MRS. BEM 261, p. 1. SDA is only approved for those who have a financial need, which is determined to exist when budgetable income is less than the payment standard established by the Department. BEM 515 (October 2018), p. 1. The payment standard established by the Department for a group size of one is \$200. RFT 225 (December 2013), p. 1. Ordinary unemployment benefits are included as countable income for determining SDA eligibility. BEM 503 (January 2020), p. 36. Provided the applicant meets all eligibility requirements, initial SDA benefits do not begin until the application becomes 30 days old. BAM 115 (October 2019), p. 27.

Starting in May 2020 and extending retroactively through a time in early April, Petitioner began receiving at least \$■■■■ per week in ordinary unemployment income. That income continued through at least the end of May and into June 2020. Just counting the ordinary unemployment income, Petitioner's monthly countable income was greater than \$■■■■. As the limit was only \$200 in monthly income, Petitioner was substantially over the income limit and properly determined to be ineligible for SDA benefits.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it closed Petitioner's SDA benefits case, effective June 1, 2020.

DECISION AND ORDER

Accordingly, the Department's decisions are **AFFIRMED**.

JM/tm



John Markey

Administrative Law Judge

for Robert Gordon, Director

Department of Health and Human Services

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

DHHS

Tara Roland 82-17
8655 Greenfield
Detroit, MI 48228

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]

cc: SDA: L. Karadsheh
FAP: M. Holden; D. Sweeney
AP Specialist-Wayne County