



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: January 14, 2021
MOAHR Docket No.: 20-007505
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on January 7, 2021. Petitioner represented himself. The Department was represented by Robert Villas.

ISSUE

Did the Department of Health and Human Services (Department) properly determine Petitioner's eligibility for the Food Assistance Program (FAP)?

FINDINGS OF FACT

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

1. Petitioner is an ongoing Food Assistance Program (FAP) recipient as a household of one.
2. Petitioner receives monthly social security benefits in the gross monthly amount of \$ [REDACTED]
3. Petitioner is responsible for housing expenses in the monthly amount of \$274 and he is responsible for heating expenses separately from his housing expense.
4. From October 1, 2020, through December 31, 2020, the Department was allowing a \$547 standard heat and utility deduction for shelter expenses. Department of Health and Human Services Reference Table Manual (RFT) 255 (October 1, 2020), p 1.
5. Effective January 1, 2021, the Department is allowing a \$537 standard heat and utility deduction for shelter expenses. Department of Health and Human Services Reference Table Manual (RFT) 255 (January 1, 2021), p 1.

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).

The Food Assistance Program (FAP) is funded under the federal Supplemental Nutrition Assistance Program (SNAP) established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 through 7 USC 2036a. It is implemented by the federal regulations contained in 7 CFR 273. The Department administers FAP pursuant to MCL 400.10 of the Social Welfare Act, MCL 400.1 *et seq*, and Mich Admin Code, R 400.3001 through 400.3011.

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The Department will provide an administrative hearing to review the decision and determine the appropriateness. The Michigan Office of Administrative Hearings and Rules (MOAHR) may grant a hearing for any of the following:

- Denial of an application and/or supplemental payments.
- Reduction in the amount of program benefits or service.
- Suspension or termination of program benefits or service.
- Restrictions under which benefits, or services are provided.
- Delay of any action beyond standards of promptness.
- For FAP only, the current level of benefits or denial of expedited service.

Department of Human Services Bridges Administrative Manual (BAM) 600
(January 1, 2020), p 5.

Petitioner is an ongoing FAP recipient and his circumstances have not changed. Despite the fact that Petitioner's circumstances have not changes, the Department reduced his monthly allotment of FAP benefits from \$159 per month to \$156 per month. Petitioner is entitled to a hearing protesting that reduction.

The reason for this reduction of benefits is that the Department reduced the amount of credit all FAP recipients receive for heat and utility expenses. This deduction is not based on actual utility expenses, but is a standardized deduction set in policy.


No evidence was presented on the record that the Department has not properly determined Petitioner's correct gross monthly income, which may be more than his actual net income, and his monthly shelter expenses.

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 determined Petitioner's eligibility for Food Assistance Program (FAP) benefits effective January 1, 2021.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.

KS/nr



Kevin Scully
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

Mona LaBerge
2612 10th Street
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Menominee County DHHS (MDHHS-
UPSChearings@michigan.gov)- via
electronic mail

BSC1- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

Petitioner

 - via first class mail
 MI