



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], MI [REDACTED]

Date Mailed: April 28, 2021
MOAHR Docket No.: 21-001195
Agency No.: [REDACTED]
Petitioner: [REDACTED] [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 April 21, 2021. Petitioner represented herself. The Department was represented by Jasmine Alexander and Carol Bateman.

ISSUE

Did the Department of Health and Human Services (Department) properly close Petitioner's State Supplemental Security Income (SSP) benefits?

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 February 15, 2021, the Department notified Petitioner that her State Supplemental Security Income (SSP) benefits would be cancelled as of February 15, 2021. Exhibit A, pp 7-8.
2. On March 5, 2021, the Department received Petitioner's request for a hearing. Exhibit A, p 4.

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 State SSI Payments (SSP) program is established by 20 CFR 416.2001-.2099 and the Social Security Act, 42 USC 1382e. The Department administers the program pursuant to MCL 400.10.

Supplemental Security Income (SSI) is a cash benefit to needy persons who are aged (at least 65), blind or disabled. It is a federal program administered by the Social Security Administration (SSA). States are allowed the option to supplement the federal benefit with state funds. In Michigan SSI benefits include a basic federal benefit and an additional amount paid with state funds. The amount of the state benefit varies by living arrangement. Payments of SSP benefits are made for only those months the recipient received a regular first of the month federal benefit. Department of Health and Human Services Bridges Eligibility Manual (BEM) 660 (October 1, 2020), p 1.

Petitioner was an ongoing recipient of SSP benefits until she received the Department's notice that those benefits would be cancelled. The Department argues that Petitioner was no longer eligible for SSP benefits because she was no longer a Michigan resident.

Petitioner testified that she was living in Michigan and has always considered herself to be a Michigan resident. Petitioner testified that she travelled to Tennessee to stay with a family member temporarily. Petitioner testified that during her stay in Tennessee, she requested that her Michigan Food Assistance Program (FAP) benefits be closed out of concern that she would receive an overissuance. The Department presented no evidence that Petitioner did not travel to Tennessee for a temporary visit.

The Department did not present any evidence that Petitioner is not an ongoing recipient of regular federal Supplemental Security Income (SSI) payments. The Department's representative testified that there was an interruption of those regular payments in April of 2020, but that would not affect her eligibility for SSP benefits as of February 15, 2021.

This Administrative Law Judge finds no authority in Department policy or Michigan law to close Petitioner's SSP benefits while she was temporarily in Tennessee. Department policy in BEM 660 (State SSI Payment) does not list Michigan residency as a requirement for receiving SSP benefits. There is nothing in BEM 220 (Residence) that applies that policy to eligibility for SSP benefits.

The Michigan SSP program is a state funded and federally administered assistance program. If the federal Social Security Administration (SSA) listed Petitioner as a Tennessee resident in its records, that could potentially affect Petitioner's eligibility for Michigan SSP benefits. No evidence in the hearing record supports a finding that Petitioner is not considered a Michigan resident by the SSA.

Assuming that BEM 220 does apply towards Petitioner's eligibility for SSP benefits, the Department has failed to establish that Petitioner was not in Tennessee for some temporary purpose or that she should not remain eligible for Michigan benefits until the purpose of her temporary stay in Tennessee was completed.

There is nothing in BEM 222 (Concurrent Receipt of Benefits) that applies that policy to eligibility for SSP benefits, and even if that policy did apply, the Department failed to establish that Petitioner was a recipient of supplemental SSI benefits from the state of Tennessee.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Petitioner's State Supplemental Security Income (SSP) benefits.

DECISION AND ORDER

Accordingly, the Department's decision is REVERSED.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Initiate a determination of the Petitioner's eligibility for the State Supplemental Security Income (SSP) effective February 15, 2021.
2. Provide the Petitioner with written notice describing the Department's revised eligibility determination.
3. Issue the Petitioner any retroactive benefits her may be eligible to receive, if any.

KS/nr



Kevin Scully
Administrative Law Judge
for Elizabeth Hertel, 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

Kimberly Kornoelje
121 Franklin SE
Grand Rapids, MI
49507

Kent County DHHS- via electronic mail

BSC3- via electronic mail

C. George- via electronic mail

EQAD- via electronic mail

Petitioner

██████████ - via first class mail

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██████████, MI

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