



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: May 17, 2021  
MOAHR Docket No.: 21-001780  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Ellen McLemore**

### **HEARING DECISION**

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge (ALJ) 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 May 13, 2021, from Detroit, Michigan. Petitioner was present with his father, [REDACTED]. The Department of Health and Human Services (Department) was represented by Lori Gripper-Williams, Family Independence Specialist.

### **ISSUE**

Did the Department properly process the Hearing Decision issued by the Michigan Office of Administrative Hearings and Rules (MOAHR)?

### **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 was an ongoing Food Assistance Program (FAP) benefit recipient.
2. On February 24, 2021, a hearing was held with MOAHR regarding Petitioner's FAP benefit amount.
3. On March 1, 2021, MOAHR issued a Hearing Decision ordering the Department to redetermine Petitioner's FAP eligibility as of January 1, 2021 (case number 20-008672).
4. On March 31, 2021, Petitioner submitted a request for hearing arguing that the Department failed to process the March 1, 2021 Hearing Decision.

## **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) [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.

In this case, Petitioner submitted a hearing request to dispute the Department's calculation of his FAP benefit amount. On February 24, 2021, a hearing was held with MOAHR. On March 1, 2021, a Hearing Decision was issued by MOAHR ordering the Department to redetermine Petitioner's FAP eligibility as of January 1, 2021. The assigned ALJ found that the Department correctly determined the factors within Petitioner's FAP budget, with the exception of the excess shelter deduction. The assigned ALJ held that Petitioner was entitled to a housing expense and the heat/utility (h/u) standard.

At the hearing, the Department argued that the March 1, 2021 Hearing Decision was processed, and Petitioner was provided with a housing expense and the h/u standard. The Department presented Petitioner's FAP budget showing that he received a housing expense of \$500 and the h/u standard of \$537. The Department testified that with the inclusion of the housing expense and the h/u standard, Petitioner was still only eligible for a FAP benefit amount of \$16. Petitioner did not dispute the amount of his housing expense. Petitioner stated that he believed the Department did not process the March 1, 2021 Hearing Decision, because his FAP benefit amount did not increase.

Upon review of the FAP budget, the Department did properly include a housing expense and the h/u standard in Petitioner's FAP benefit amount. Petitioner was properly provided with an excess shelter deduction of \$459, which resulted in a net income of [REDACTED]. The Department correctly determined Petitioner's net income. However, the Department utilized outdated policy to determine Petitioner's ongoing FAP benefit amount. Effective February 1, 2021, BEM 556 was updated to state that the group's net income is not multiplied by 30% for a group size of 1 or 2. BEM 556 (February 2021), p. 6. The Department is to utilize net income results and RFT 260 to determine FAP issuance amounts. BEM 556, p. 6. Per RFT 260, a group size of one with a net income of \$698 is entitled \$24 per month in FAP benefits. The Department presented Petitioner's eligibility summary which showed he was still receiving an ongoing FAP benefit amount of \$16. Although the Department did properly process the March 1, 2021 Hearing Decision by including the correct excess shelter deduction in Petitioner's FAP

budget, the Department's determination as to Petitioner's FAP benefit amount was incorrect as of February 1, 2021.

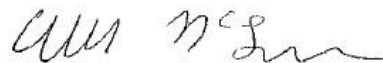
**DECISION AND ORDER**

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 did not act in accordance with Department policy when it determined Petitioner's monthly FAP benefit allotment. 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. Redetermine Petitioner's FAP benefit amount as of February 1, 2021;
2. Utilize RFT 260 to determine Petitioner's monthly FAP benefit allotment;
3. If Petitioner is eligible for additional FAP benefits, issue supplements he is entitled to receive; and
4. Notify Petitioner of its decision in writing.

EM/jem



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**Ellen McLemore**

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

**Via Email:**

MDHHS-Wayne-17-Hearings  
BSC4-HearingDecisions  
M. Holden  
D. Sweeney  
MOAHR

**Petitioner – Via First-Class Mail:**

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