



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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[REDACTED] MI [REDACTED]

Date Mailed: August 4, 2021
MOAHR Docket No.: 21-002877
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun

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 29, 2021, from Detroit, Michigan. Petitioner appeared for the hearing and represented herself. A representative from the Department of Health and Human Services (Department) was not present for the hearing and the hearing was held in the Department's absence.

ISSUE

Did the Department properly reduce Petitioner's State Supplement SSI Payment (SSP) program 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. Petitioner is approved for Supplemental Security Income (SSI) through the federal Social Security Administration (SSA).
2. Petitioner is an ongoing recipient of SSP program benefits through the Department.
3. On May 18, 2021, the Department sent Petitioner a Notice of State SSI Payment to Change (Notice) advising her that her quarterly State SSI Payment has been reduced. The reason for the change was that the SSA notified the Department that Petitioner did not receive a regular first of the month SSI payment for (1,2) months. The Notice further advised Petitioner that she must receive the regular first of the

month SSI payment to be eligible for a State SSI Payment and that the reduced payment is scheduled to be issued on June 14, 2021. (Exhibit A, pp. 4-5)

4. On June 8, 2021, Petitioner requested a hearing, disputing the closure of his SSP case. (Exhibit A, pp. 4-5)

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.

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. BEM 660 (October 2020), p.1.

The Department issues SSP benefits to SSI recipients in the following living arrangements: Independent living or Household of another (Living in the household of another person and receiving partial or total support and maintenance in kind from that person). SSP payments are issued quarterly and payment levels are determined by RFT 248. BEM 660, pp.1-2; RFT 248 (January 2021), pp. 1-3. Payments are made for only those months the SSI recipient received a regular first of the month federal benefit. These are shown as a recurring payment dated the first of the month on the State Online Query (SOLQ). SSPs are not issued for retroactive or supplemental federal benefits. BEM 660, pp. 1-2. SSP benefits are issued quarterly and are paid the last month of each quarter. The DHS – 430, Notice of State SSI Payment Change is sent to each SSI recipient whose current quarterly SSP payment is less than the previous quarterly state SSP payment. The Notice gives recipients timely notice of any proposed benefit reduction, notifies recipients of their hearing rights, and notifies recipients of the date they will receive their next reduced quarterly check. BEM 660, p.3

In this case, the Department was not present for the hearing and thus, did not present any evidence in support of the reduction of Petitioner's SSP benefits. At the hearing, the undersigned read the Hearing Summary prepared by the Department in response to Petitioner's request for hearing into the hearing record. According to the Hearing Summary, the Department reduced Petitioner's quarterly SSP benefit because she did

not receive a recurring payment dated the first of the month for April 1, 2021, and instead, received a payment on April 2, 2021.

Petitioner testified that she is still receiving SSI but there was a delay in one of her monthly SSI payments due to an address issue and submission of documentation. She testified that for one month, her SSI payment was not received on time and was late. Petitioner confirmed that she received a reduced quarterly SSP payment in June 2021 of \$█.

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 because a representative from the Department was not present for the hearing to offer any testimony or documentary evidence in support of the action taken, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it reduced Petitioner's SSP benefit.


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. Issue SSP supplements to Petitioner for any month in which she received a recurring SSI payment dated first of the month, as documented on the SOLQ.
2. Notify Petitioner in writing of its decision.

ZB/jm



Zainab A. Baydoun
Administrative Law Judge

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-OaklandDistrictII-Hearings
BSC4-HearingDecisions
C. George
MOAHR

Petitioner – Via First-Class Mail:

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