



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: August 4, 2021  
MOAHR Docket No.: 21-003208  
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 July 28, 2021. Petitioner was represented by himself. Ludna (#7621) of Linqustica International acted as an interpreter for Petitioner. The Department was represented by Haysem Hosny.

### **ISSUE**

Did the Department of Health and Human Services (Department) properly deny Petitioner's application for Food Assistance Program (FAP) 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 May 13, 2021, the Department sent Petitioner a Verification Checklist (DHS-3503) requesting verification of his income by May 24, 2021. Exhibit A, pp 6-7.
2. On May 13, 2021, the Department sent Petitioner an Employment verification Form (MDHHS-38) with a May 24, 2021, due date. Exhibit A, pp 8-10.
3. On May 20, 2021, the Department received documents titled "Verification of Employment", "UCB Unemployment Compensation Benefits", Check stubs or Earnings Statement", "Check stubs or Earnings Statement", and "Verification of Employment." Several other documents were received between May 25, 2021, and June 1, 2021. Exhibit A, p 11.
4. On May 25, 2021, the Department notified Petitioner that he was not eligible for Food Assistance Program (FAP) benefits as of January 25, 2021. Exhibit A, pp 12-16.

5. On June 28, 2021, the Department received Petitioner's request for a hearing protesting the denial of his application for Food Assistance Program (FAP) benefits. Exhibit A, pp 3-4.

### **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 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 must cooperate with the local office in determining initial and ongoing eligibility and this includes the completion of necessary forms. Department of Human Services Bridges Assistance Manual (BAM) 105 (July 1, 2020), p 9.

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level when it is required by policy, required as a local office option, or information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. The Department uses documents, collateral contacts, or home calls to verify information. A collateral contact is a direct contact with a person, organization, or agency to verify information from the client. When documentation is not available, or clarification is needed, collateral contact may be necessary. Department of Human Services Bridges Assistance Manual (BAM) 130 (January 1, 2021), pp 1-10.

The Department will send a negative action when the client indicates refusal to provide a verification, or the time period given has elapsed and the client has not made a reasonable effort to provide it. Department of Health and Human Services Bridges Administrative Manual (BAM) 130 (April 1, 2017), p 7.

On May 13, 2021, the Department requested that Petitioner provide verification of his income by May 24, 2021, in order to determine his eligibility for FAP benefits. On May 25, 2021, the Department notified Petitioner that he was not eligible for FAP benefits as of January 25, 2021.

The Department's representative testified that Petitioner failed to provide the Department with timely verification of his income, which was necessary to accurately determine his eligibility for FAP benefits.

The hearing record supports a finding that Petitioner attempted to provide verification of his income and submitted some documents before the May 24, 2021, due date. Those documents were not entered into the hearing record and therefore, this Administrative Law Judge has no basis for determining whether those documents were sufficient verification of Petitioner's income.

The Department has the burden of going forward with evidence to establish that it denied FAP benefits in accordance with its policies. In this case, the Department failed to provide evidence that the documents received on May 20, 2021, were not sufficient verification of Petitioner's income.

The hearing supports a finding that Petitioner made a reasonable effort to provide the Department with verification of his income. If the May 20, 2021, documents were insufficient, the Department failed to establish why the due date for verification was not extended, or why Petitioner was not given a reasonable opportunity to resolve any discrepancy between the income he claimed to receive and the verification documents he submitted. The Department is directed to give clients a reasonable opportunity to resolve such discrepancies by BAM 130 on page 9. Further, Petitioner's limited ability to communicate in English was a barrier to him providing the Department with sufficient verification of his income.

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 denied Food Assistance Program (FAP) benefits as of January 25, 2021.

### **DECISION AND ORDER**

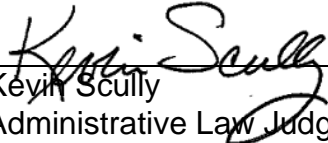
Accordingly, the Department's decision is REVERSED.

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 Food Assistance Program (FAP) as of January 25, 2021.
2. Provide the Petitioner with an opportunity to provide the Department with verification of his income within 10 days, if necessary to determine his eligibility for Food Assistance Program (FAP) benefits.
3. Provide the Petitioner with written notice describing the Department's revised eligibility determination.

4. Issue the Petitioner any retroactive benefits, including supplemental benefits, that he may be eligible to receive, if any.

KS/nr

  
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Kevin Scully  
Administrative Law Judge  
Michigan Office of Administrative Hearings  
and Rules (MOAHR)

**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**

Dawn Tromontine  
41227 Mound Rd.  
Sterling Heights, MI 48314

Macomb 36 County DHHS- via electronic  
mail

BSC4- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

**Petitioner**

██████████ - via first class mail

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██████████, MI ██████████