



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: October 19, 2022  
MOAHR Docket No.: 22-004128  
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 October 13, 2022, from Lansing, Michigan. Petitioner was represented by himself. The Department was represented by Chrissie Johnston, Julie Parent, and Julie Dewer. The Department's representative testified that the Department's proposed hearing exhibits were mailed to Petitioner's address of record by certified mail, and that Petitioner refused to accept them. Petitioner disputes that he refused to accept the proposed hearing exhibits but claims that he is being discriminated against by the local postmaster. Petitioner did not offer any evidence that he is not able to receive mail at his address of record on the basis of discrimination or any other reason. Petitioner did not request an adjournment of the hearing and waived advanced receipt of the proposed exhibits.

### **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 was notified by the Social Security Administration (SSA) that he had been paid \$841 too much Supplemental Security Income (SSI) money in August of 2022.

3. Petitioner receives monthly Supplemental Security Income (SSI) in the gross monthly amount of \$1,155 and State Supplemental Security Income (SSP) in the gross monthly amount of \$14.
4. On July 23, 2022, the Department notified Petitioner that his monthly allotment of Food Assistance Program (FAP) benefits would decrease to \$142 as of September 1, 2022. Exhibit A, p 5.
5. On August 19, 2022, the Department notified Petitioner that his monthly allotment of Food Assistance Program (FAP) benefits would decrease to \$20 as of September 1, 2022. Exhibit A, p 12.
6. On September 12, 2022, the Department received verification that Petitioner is responsible for a homeowner insurance premium fee in the annual amount of \$2,528. Exhibit A, pp 17-19.
7. On September 13, 2022, the Department notified Petitioner that he was eligible for a \$109 monthly allotment of Food Assistance Program (FAP) benefits effective October 1, 2022. Exhibit A, p 24.
8. On August 30, 2022, the Department received Petitioner's request for a hearing. Exhibit A, p 3.

### **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  
(March 1, 2021), p 5.

Petitioner testified that he was disputing the recoupment of SSI benefits, but that action was not taken by the Department. Petitioner's eligibility for SSI benefits is an action taken by the federal Social Security Administration (SSA) and not the Department. The Michigan Office of Administrative Hearings and Rules (MOAHR) does not have jurisdiction over the overpayment of SSI benefits or SSA actions.

Petitioner testified that he was disputing the recovery of SDA benefits granted to him by the Department. Eligibility for SDA benefits requires that applicants seek out all potential benefits they may be eligible for, including SSI benefits. Applicants for SDA benefits must sign an agreement to repay interim assistance when applying for potential benefits, such as SSI benefits. Therefore, Petitioner is not entitled to dispute the repayment of SDA benefits he may have received because it was an SDA eligibility requirement to agree to repay the Department if granted SSI benefits were granted. Department of Health and Human Services Bridges Eligibility Manual (BEM) 272 (January 1, 2018), p 1.

All earned and unearned income available is countable unless excluded by policy. Earned income means income received from another person or organization or from self-employment for duties for duties that were performed for compensation or profit. Unearned income means all income that is not earned income. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. Department of Human Services Bridges Eligibility Manual (BEM) 500 (April 1, 2022), pp 1-17.

Petitioner receives income in the gross monthly amount of \$██████ consisting of federal SSI and state SSP benefits. Petitioner's adjusted gross income of \$██████ was determined by reducing his gross income by the \$193 standard deduction.

Petitioner is entitled to a deduction for shelter expenses. The Department will verify shelter expenses at application and when a change is reported. If the client fails to verify a reported change in shelter, the Department will remove the old expense until the new expense is verified. Department of Health and Human Services Bridges Eligibility Manual (BEM) 554 (October 1, 2022), p 15. On September 12, 2022, the Department received verification of Petitioner's obligation to pay a monthly insurance expense of \$210.67, which was determined by dividing the annual premium cost by 12 months.

Prior to the receipt of the verification of that expense, the Department was directed by BEM 554 to exclude that unverified expense from its determination of eligibility for FAP.

Petitioner's total shelter expenses of \$890.83 include his insurance premium payment, his property tax obligation, and the \$620 standard heat and utility deduction. Petitioner's excess shelter deduction of \$402 was determined by reducing his total monthly shelter expenses by 50% of his adjusted gross income.

Petitioner's net monthly income of \$573 was determined by reducing his adjusted gross monthly income by his excess shelter deduction. A household of one with a net income of \$573 is entitled to a \$109 monthly allotment of FAP benefits, not counting any emergency allotment supplements funded through the federal Consolidated Appropriations Act (CCA). Department of Health and Human Services Reference Table Manual (RFT) 260 (October 1, 2021), p 8.

Petitioner argues that he is being discriminated against by his eligibility worker and other employees of the Department.

However, a complaint as to alleged misconduct or mistreatment by a state employee shall not be considered through the administrative hearing process but shall be referred to the department personnel director. Mich Admin Code, R 792.11002. Therefore, Petitioner's grievance with respect to mistreatment by the Department does not fall under the jurisdiction of MOAHR.

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 the Food Assistance Program (FAP).

### **DECISION AND ORDER**

Accordingly, the Department's decision is AFFIRMED.

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

