



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: January 12, 2023  
MOAHR Docket No.: 22-004925  
MOAHR Docket No.: 22-005423  
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. On November 18, 2022, the hearing was adjourned. On December 2, 2022, the hearing was adjourned. On December 13, 2022, the hearing was adjourned. Petitioner filed a motion to disqualify the Administrative Law Judge and three subpoena requests. Petitioner's motion and each of the subpoena requests were denied. Petitioner requested reasonable accommodations to assist his participation in the hearing, which was granted, and the Department was ordered to arrange Communication Access Real-Time Translations (CART) services as a reasonable accommodation. On December 19, 2022, the hearing was adjourned. A videoconference hearing with Communication Access Real-Time Translations (CART) services was held on January 10, 2023, from Lansing, Michigan. Petitioner represented himself and he testified on his own behalf. The Department was represented by Kristina Warner, and she testified on behalf of the Department.

### **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. On [REDACTED] 2022, the Department received Petitioner's application for State Emergency Relief (SER) assistance with a utility bill. Exhibit A, p 6.
2. The Department discovered that Petitioner has two separate Consumer's Energy accounts through a collateral contact. Exhibit A, pp 12-13.

3. On August 31, 2022, the Department sent Petitioner a Verification Checklist (DHS-3503) requesting verification of his home rent expense and his social security income by September 12, 2022. Exhibit A, pp 16-17.
4. When the information requested on August 31, 2022, was not received, the Department extended the due date for Petitioner to provide the information requested to October 10, 2022. Petitioner was notified of the extension on September 29, 2022. Exhibit A, p 20.
5. On September 29, 2022, the Department sent Petitioner a Shelter verification needed (DHS-3688) requesting verification of his shelter expenses by October 10, 2022. Exhibit A, p 21.
6. The Department's Electronic Case File does not contain a record that Petitioner submitted verification of his shelter expenses or his social security income as of October 19, 2022. Exhibit A, p 26.
7. On October 14, 2022, the Department notified Petitioner that his monthly allotment of Food Assistance Program (FAP) benefits would be reduced to \$ [REDACTED] per month. Exhibit A, p 27.
8. On [REDACTED], 2022, the Department received Petitioner's application for State Emergency Relief (SER) assistance. Exhibit A, p 69.
9. On October 20, 2022, the Department sent Petitioner a Verification Checklist (DHS-3503) requesting verification of his medical expenses and his residential address by October 31, 2022. Exhibit A, pp 77-78.
10. The Department's Electronic Case File does not contain a record that Petitioner submitted verification of medical expenses or residential address as of November 18, 2022. Exhibit A, p 82.
11. On October 21, 2022, the Department received Petitioner's request for a hearing protecting the reduction of Food Assistance Program (FAP) benefits following a Notice of Case Action Dated October 14, 2022. Exhibit A, p 5.
12. On November 3, 2022, the Department notified Petitioner that he was no longer eligible for Food Assistance Program (FAP) benefits as of December 1, 2022. Exhibit A, p 84.
13. On November 16, 2022, the Department received Petitioner's request for a hearing protesting the closure of his Food Assistance Program (FAP) benefits effective December 1, 2022. Exhibit A, p 4.
14. On December 14, 2022, the Department received Petitioner's amended hearing request along with verification of Petitioner's social security income. Exhibit A, p 62.

### **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.

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1 *et seq.* The Department administers the SER program pursuant to MCL 400.10 of the Social Welfare Act, MCL 400.1 *et seq.*, and Mich Admin Code, R 400.7000 through R 400.7049.

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 filed a hearing request on October 21, 2022, protesting the reduction in the amount of FAP benefits he was being granted by the Department. On November 16, 2022, the Department received a second hearing request protesting the subsequent denial of FAP benefits. On December 14, 2022, Petitioner filed an amended hearing request. Petitioner requested that the two hearing requests identified by MOAHR

Docket Numbers 22-004925 and 22-005423 be consolidated into a single administrative hearing. The amended hearing requested also expanded Petitioner's hearing request to include the State Emergency Relief (SER) program.

Petitioner had previously filed a hearing request identified by MOAHR Docket Number 22-004087. The denial of SER assistance was upheld by MOAHR on December 7, 2022. On December 5, 2022, Petitioner filed a request for rehearing/reconsideration, which remains pending at this time. The Department's witness credibly testified that Petitioner has reapplied for SER assistance and that application has been approved. Petitioner failed to identify a negative action for which entitles him to an administrative hearing with respect to SER assistance.

Based on the circumstances Petitioner reported on his [REDACTED], 2022, application form, the Department requested verification of Petitioner's income and shelter expenses. Petitioner failed to return the requested information in a timely manner and the Department extended the due date to comply to October 10, 2022. On October 14, 2022, the Department notified Petitioner that his monthly allotment of FAP benefits would be reduced to \$[REDACTED] per month. This reduction was based on the removal of Petitioner's shelter expenses from his FAP benefits. If the client fails to verify shelter expenses, 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. Therefore, the Department was acting in accordance with policy in BEM 554 when it reduced Petitioner's monthly allotment of FAP benefits on October 14, 2022, after removing his shelter expenses from consideration.

It should be noted that despite the reduction of Petitioner's monthly allotment of FAP benefits, since he remained eligible for any FAP benefits, the Department granted him supplemental FAP benefits raising his monthly allotment to the maximum allotment available due to the COVID-19 pandemic. Therefore, there was no actual reduction of FAP benefits at that time.

On [REDACTED] 2022, the Petitioner reapplied for SER assistance. On October 20, 2022, the Department requested verification of medical expenses and his residential address by October 31, 2022. On November 3, 2022, the Department had not received verification of Petitioner's residential address or shelter expenses. Further, the Department had not received verification of Petitioner's social security income that had been previously requested for the SER application. Since the Department was not able to accurately determine Petitioner's eligibility for ongoing FAP benefits, he was notified that he was no longer eligible for FAP benefits as of December 1, 2022. The Department was required to send this notice manually due to the pending hearing request on his case.

On December 14, 2022, Petitioner submitted an amended hearing request and verification of his social security income. Reinstatement restores a closed program to active status without completion of a new application. Closed programs may be reinstated for complying with program requirements before the negative action date. Department of Health and Human Services Bridges Administrative Manual (BAM) 205

(October 1, 2022), p 1. Since Petitioner failed to verify his income before December 1, 2022, reinstatement of his FAP benefits was no longer available to him.

Petitioner argues that Department employees are intentionally discriminating against him on the basis of his disability and his gender. 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.

Petitioner argues that he provided the Department with the verification documents that were requested in a timely manner. The Department presented substantial evidence that it provided Petitioner with written requests for verification of the circumstances affecting his eligibility for benefits, and it is presumed that he received these requests. Petitioner failed to offer any evidence that he did not receive the Department's requests for verification. Petitioner failed to offer any evidence that he returned any response to these requests for information, which were necessary to accurately determine his eligibility for ongoing FAP benefits.

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 reduced Petitioner's monthly allotment of Food Assistance Program (FAP) benefits on October 14, 2022, and was also acting in accordance with Department policy when it closed Petitioner's Food Assistance Program (FAP) benefits effective December 1, 2022.

### **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

**Via-Electronic Mail :**

**DHHS**  
Tamara Little  
Jackson County DHS  
301 E. Louis Glick Hwy.  
Jackson, MI 49201  
**MDHHS-Jackson-  
Hearings@michigan.gov**

**Interested Parties**  
Jackson County DHHS  
BSC4  
M. Holden  
D. Sweeney  
MOAHR

**Via-First Class Mail :**

**Petitioner**  
[REDACTED]  
[REDACTED]  
[REDACTED], MI [REDACTED]