



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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██████████, MI ██████████

Date Mailed: April 24, 2023  
MOAHR Docket No.: 23-001518  
Agency No.: ██████████  
Petitioner: ██████████ ██████████

**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 April 19, 2023, from Lansing, Michigan. Petitioner was represented by ██████████ ██████████ and Petitioner testified on his own behalf. The Department was represented by Andrew Corwin, Tamia McGlothin, and Ashley Davis.

### **ISSUE**

Did the Department of Health and Human Services (Department) properly determine Petitioner's eligibility for Food Assistance Program (FAP) benefits effective February 1, 2023?

### **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) recipient as a household of one in January of 2023.
2. Petitioner received Supplemental Security Income (SSI) and State Supplemental Security Income (SSP) in the gross monthly amount of \$██████████ in February of 2023.
3. On February 21, 2023, the Department notified Petitioner that he was not eligible for Food Assistance Program (FAP) benefits effective February 1, 2023. Exhibit A, pp 4-8.
4. Petitioner is responsible for a \$250 monthly housing expense.

5. Petitioner is not responsible for heating or cooling expenses separately from his housing expenses and no evidence that he received the Home Heating Credit was presented during the hearing.
6. On March 13, 2023, the Department received Petitioner's request for a hearing protesting the closure of his Food Assistance Program (FAP) benefits. 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.

Petitioner was an ongoing FAP recipient until February of 2023. In February of 2023, Petitioner received unearned income in the gross monthly amount of \$[REDACTED] and Petitioner did not dispute that he received this income.

The gross income limit for a household of one is \$1,473, but this limit does not apply to Petitioner based on his disabilities as a senior/disabled/veteran household. Department of Health and Human Services Reference Table Manual (RFT) 250 (October 1, 2022), p 1.

The Department determined that Petitioner's net monthly income for February of 2023 was \$[REDACTED] and the hearing record supports a finding that he was not entitled to any deductions other than the \$193 standard deduction because his total shelter expenses were less than half of his gross monthly income.

However, the hearing record supports a finding that the Department improperly determined Petitioner's gross monthly income in February of 2023.

Federal regulations require that money received in the form of a nonrecurring lump-sum payment, including, but not limited to SSI payments shall be excluded from household income. 7 CFR 273.9(c)(8). This federal regulation is reflected in Department policy in that only the portion of retroactive SSA issued SSI benefits intended as current benefits is considered income. Department of Health and Human Services Bridges Eligibility Manual (BEM) 503 (January 1, 2023), p 36.

In this case, it was not disputed that Petitioner received SSI benefits in the gross monthly amount of \$[REDACTED] in February of 2023, but the Department failed to establish that this entire amount was intended as current benefits or that the entire benefits was countable towards his eligibility for FAP benefits in that month.

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 that Petitioner was not eligible for Food Assistance Program (FAP) benefits effective February 1, 2023.

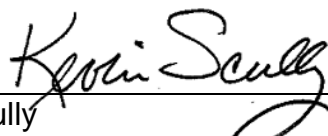
### **DECISION AND ORDER**

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) effective February 1, 2023, and ongoing, including supplemental benefits.
2. Provide the Petitioner with written notice describing the Department's revised eligibility determination.
3. Issue the Petitioner any retroactive benefits 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

**Via-Electronic Mail :**

**DHHS**  
Jackie Stempel  
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**MDHHS-Muskegon-  
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**Interested Parties**  
Muskegon County DHHS  
BSC3  
M. Holden  
D. Sweeney  
MOAHR

**Via-First Class Mail :**

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