



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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Date Mailed: June 6, 2023  
MOAHR Docket No.: 23-002540  
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 June 1, 2023, from Lansing, Michigan. Petitioner represented himself. The Department was represented by Lianne Scupholm.

### **ISSUE**

Did the Department of Health and Human Services (Department) properly determine Petitioner's eligibility 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 ██████████ 2023, the Department received Petitioner's application for Food Assistance Program (FAP) benefits. Exhibit A, p 3.
2. Petitioner reported on his ██████████ 2023, application form that he was part of a household of three people. Exhibit A, p 5.
3. Petitioner reported that there are two children in his household that are under age 20. Exhibit A, p 6.
4. Petitioner reported that one of his children is employed at a rate of \$██████████ per hour and expects to work 40 hours per week. Exhibit A, p 8.
5. Employment records show that Petitioner's son received earned income totaling \$██████████ in January of 2023. Exhibit A, p 33.

6. Petitioner reported that he is disabled and received Supplemental Security Income (SSI) in the gross monthly amount of \$[REDACTED] and State Supplemental Security Income (SSP) in the gross monthly amount of \$14. Exhibit A, p 8.
7. Petitioner reported that he is responsible for property taxes, homeowner's insurance, and utilities for his home. Exhibit A, p 13.
8. On February 7, 2023, the Department notified Petitioner that he is not eligible for Food Assistance Program (FAP) benefits. Exhibit A, p 22.
9. On April 25, 2023, the Department received Petitioner's verbal request for a hearing protesting the denial of his application for Food Assistance Program (FAP) benefits. Exhibit A, p 37.

### **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.

On [REDACTED] 2023, Petitioner applied for FAP benefits as a household of three people including himself and two children under the age of 22. Parents and their children under 22 years of age must be in the same FAP benefits household and their income is countable towards the household's eligibility for benefits. Department of Human Services Bridges Eligibility Manual (BEM) 212 (January 1, 2022), p 1.

On February 7, 2023, the Department notified Petitioner that his application for FAP benefits had been denied, and on April 25, 2023, he filed a timely request for a hearing protesting the denial of his FAP application. Petitioner argues that he was told that he was eligible for FAP benefits and that the Department admitted to making errors when evaluating his application.

In order to receive FAP benefits, Petitioner bears the burden of establishing that he is eligible for benefits. Therefore, the issue presented here is not what Petitioner's caseworker told him or whether any mistakes were made on his application, but whether Petitioner is eligible for FAP benefits.

Petitioner reported to the Department on his application that one of his children was employed full time at a rate of \$█ per hour. Petitioner reported that he is disabled and receiving SSI payments. Employment records indicate that in January of 2023, Petitioner's child received earned income in the gross monthly amount of \$█. Petitioner received SSI totaling \$█ and SSP totaling \$14, which was determined by dividing his quarterly SSP payment by 3 months. The gross monthly income limit for a household of three people is \$2,495. Department of Health and Human Services Reference Table Manual (RFT) 250 (October 1, 2022), p 1.

However, the Department does not dispute that Petitioner is disabled, and therefore, his household is not subject to the gross monthly income limit.

All income is converted to a standard monthly amount. If the client is paid weekly, the Department multiplies the average weekly amount by 4.3. If the client is paid every other week, the Department multiplies the average bi-weekly amount by 2.15. Department of Human Services Bridges Eligibility Manual (BEM) 505 (October 1, 2017), pp 7-8.

Respondent reported that his child was employed full time at a rate of \$█ per hour, which is the equivalent of a prospective gross monthly income of \$█ as directed by BEM 505. Adding Petitioner's SSI and SSP benefits give the household a gross monthly income of \$█. Earned income is reduced by a 20% earned income deduction and the household receives a \$193 standard deduction. After deductions, this leaves the household with an adjusted gross income of \$█.

FAP recipients are entitled to a deduction for household shelter expenses. Petitioner reported being responsible for property taxes, homeowner's insurance, and utilities. Households are responsible for heat and utility cost receive the standard \$624 heat and utility deduction. FAP groups that qualify for the heat and utility standard do not receive any other individual utility standards. Petitioner's annual property taxes and his homeowner's insurance premium are divided by 12 months to determine a \$254.67 monthly housing expense. Since these expenses are less than half of the household's adjusted gross monthly income, Petitioner is not entitled to a shelter expense as directed by BEM 556.

Petitioner later reported that he is also responsible for paying a \$4,900 tax assessment for utility installation charges. Actual utility expenses are used only in certain circumstances, and this is one of those circumstances as directed by BEM 554.

However, if that one-time installation expense is divided by 12 months and added to Petitioner's other shelter expenses, those expenses remain less than 50% of his adjusted gross income and he is not entitled to an excess shelter deduction.


Since Petitioner is not entitled to an excess shelter deduction, the household's net monthly income is the same as the adjusted gross income. The net monthly income for a household of three is \$1,920. See RFT 250. The hearing record supports a finding that Petitioner's net monthly income exceeds the limit to receive any 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 denied Petitioner's [REDACTED] 2023, application for Food Assistance Program (FAP) benefits based on the household's income.

**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**  
Kristina Etheridge  
Calhoun County DHHS  
190 East Michigan  
Battle Creek, MI 49016  
**MDHHS-Calhoun-  
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**Interested Parties**  
Calhoun County DHHS  
BSC3  
M. Holden  
D. Sweeney  
MOAHR

**Via-First Class Mail :**

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