



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: August 16, 2023  
MOAHR Docket No.: 23-004043  
Agency No.: ██████████  
Petitioner: ██████████

**ADMINISTRATIVE LAW JUDGE: Colleen Lack**

### **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; 42 CFR 438.400 to 438.424; 45 CFR 99.1 to 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on August 9, 2023, from Lansing, Michigan. ██████████ the Petitioner, appeared on his own behalf. The Department of Health and Human Services (Department) was represented by Alyssa Akins, Eligibility Specialist (ES) and Debra Kelly-Wheeler, Supervisor.

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-21.

### **ISSUE**

Did the 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 ██████████, 2022, the Department received a Michigan Combined Application Project (MICAP) application for Petitioner. (Exhibit A, pp. 7-8)
2. On September 28, 2022, a Notice of Case Action was issued to Petitioner approving FAP benefits in the amount of \$86.00 per month effective September 27, 2022. (Exhibit A, pp. 9-12)
3. The MICAP policy regarding the benefit amount based on the total shelter expense was updated effective October 1, 2022 . BEM 618, October 1, 2022, p. 3.

4. On October 7, 2022, a Notice of Case Action was issued to Petitioner increasing the FAP benefit amount to \$117.00 effective October 1, 2022. (Exhibit A, pp. 13-17)
5. COVID-19 Emergency Allotment supplements were issued through February 2023. (Exhibit A, pp. 18-20)
6. On July 12, 2023, Petitioner filed a hearing request. Petitioner requested an extra \$100.00 in benefits based on having the same name as his deceased father who was a veteran. (Exhibit A, pp. 3-5)

### **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) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The Department (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

The Michigan Combined Application Project (MiCAP) is a Food Assistance demonstration project approved by the Food and Nutrition Service (FNS). MiCAP is a series of waivers that allows Michigan Department of Health and Human Services (MDHHS) to issue Food Assistance Program (FAP) benefits to Supplemental Security Income (SSI) individuals who qualify for this program.

The program is administered by the centrally located MiCAP unit. Final eligibility determination and redeterminations are the responsibility of the MiCAP unit.

BEM 618, October 1, 2021, p. 1.

The BEM 618 policy regarding benefit amount at the time of the September 28, 2022 determination stated:

#### **Benefit Amount**

The amount of Food Assistance Program (FAP) benefits MiCAP individuals receive is determined by their total shelter expenses, (shelter

plus heat and utility expenses). If an individual's total shelter expenses are:

- Below \$525, the FAP benefit is \$86 per month.
- Between \$525 and \$749 the FAP benefit is \$151 per month.
- Equal to or exceed \$750, the FAP benefit amount is \$231 per month.

BEM 618, October 1, 2021, p. 3.

The BEM 618 policy regarding benefit amount was updated effective October 1, 2022 and states:

### **Benefit Amount**

The amount of Food Assistance Program (FAP) benefits MiCAP individuals receive is determined by their total shelter expenses, (shelter plus heat and utility expenses). If an individual's total shelter expenses are:

- Below \$525, the FAP benefit is \$117 per month.
- Between \$525 and \$749 the FAP benefit is \$182 per month.
- Equal to or exceed \$750, the FAP benefit amount is \$262 per month.

BEM 618, October 1, 2022, p. 3.

Petitioner confirmed that he was homeless at the time of the September 27, 2022 and October 7, 2022 determinations. Petitioner has recently received a prospective letter regarding an apartment. (Petitioner Testimony). Accordingly, in September 2022, Petitioner did not have a housing expense because he was homeless. Therefore, Petitioner was only eligible for \$86.00 in FAP benefits for September 2022. Effective October 2022, the BEM 618 policy increased the benefit amounts. Petitioner did not have a housing expense as he was still homeless. Therefore, Petitioner was only eligible for \$117.00 in FAP benefits effective October 2022. Petitioner should notify the Department when he moves to an apartment so that any changes in his shelter expense can be considered for determining his ongoing eligibility for FAP.

COVID-19 Emergency Allotment supplements were issued through February 2023. (Exhibit A, pp. 18-20). Because of the public health emergency (PHE) declared by the Secretary of Health and Human Services under section 319 of the Public Health Services Act, 42 USC 201 *et seq.*, due to the COVID-19 pandemic-related economic conditions, since April 2020 Michigan FAP recipients have received emergency allotments (EA). In Michigan, the EA gave FAP recipients supplements to their monthly FAP allotment that resulted in the households receiving the maximum FAP benefits for the households' FAP group size, plus up to an additional \$95, regardless of income level. The Consolidated Appropriations Act, 2023 (CAA, 2023), PL 117-328, was signed into federal law on December 29, 2022 and ended the EA supplements in February

2023 for all FAP recipients. Beginning March 2023, all FAP recipients received only their regular monthly allotment and no longer received EA supplements.

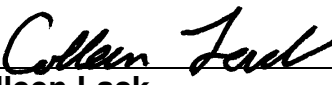
Petitioner also asserts that he is eligible for an extra \$100.00 each month based on a same name statute. Petitioner explained that he has the same name as his father, who was a veteran, which qualifies him for he extra \$100.00 per month. (Petitioner Testimony). However, no statute or policy could be located by this Administrative Law Judge that would allow for Petitioner to receive an extra \$100.00 in FAP benefits based on having the same name as his father, who was a veteran.

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 FAP.

**DECISION AND ORDER**

Accordingly, the Department's decision is **AFFIRMED**.

CL/ml

  
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**Colleen Lack**  
Administrative Law Judge

**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**  
Nicolette Vanhavel  
235 S Grand Ave Ste 1403  
Lansing, MI 48933  
**MDHHS-MiCAP-Hearings@michigan.gov**

**Interested Parties**

M Holden  
D Sweeney  
MOAHR

**Via First Class Mail:**

**Petitioner**

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