



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: September 1, 2023
MOAHR Docket No.: 23-004334
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 August 30, 2023, from Lansing, Michigan. Petitioner represented himself. The Department was represented by Tania Ajami.

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 and on June 13, 2023, the Department received his completed Redetermination (DHS-1010) form. Exhibit A, p 7.
2. Petitioner reported that his monthly rent had increased to \$624 as of August 1, 2023, and that he was not obligated to pay heat or air conditioning expenses separately from his rent. Petitioner also reported that he was not receiving a Home Heating Credit greater than \$20. Exhibit A, p 14.
3. On August 2, 2023, the Department received Petitioner's request for a hearing protesting the amount of his monthly allotment of Food Assistance Program (FAP) benefits. 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) 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 heat and utility standard covers all heat and utility costs including cooling, except actual utility expenses. FAP groups that qualify for the heat and utility standard do not receive any other individual utility standards. A FAP group which has a heating expense or contributes to the heating expense separate from rent, mortgage or condominium/maintenance payments must use the heat and utility standard. FAP groups whose heat is included in their rent or fees are not eligible for the h/u standard, unless they are billed for excess heat payments from their landlord. Department of Human Services Bridges Eligibility Manual (BEM) 554 (January 1, 2020), pp 15-21.

Petitioner is an ongoing FAP recipient, and his gross monthly income increased due to a cost-of-living increase to his social security payments. Petitioner's obligation to pay housing expenses is dependent on his income, and this resulted in an increase to his rent.

The Department received verification of Petitioner's rent increase but did not update the shelter expenses in his benefits case. After reviewing the evidence, this Administrative Law Judge finds that the hearing record supports a finding that Petitioner is not entitled to the heat and utility deduction unless he applies for and is granted a Home Heating Credit. As of August 1, 2023, Petitioner is receiving the heat and utility deduction, and this is not supported by Department policy.

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 Petitioner's eligibility for Food Assistance Program (FAP) as of August 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:

Initiate a determination of the Petitioner's eligibility for the Food Assistance Program (FAP) as of August 1, 2023.

KS/nr



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

Caryn Jackson
Wayne-Hamtramck-DHHS
12140 Joseph Campau
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**MDHHS-Wayne-55-
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Interested Parties

Wayne 55 County DHHS
BSC4
M. Holden
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MOAHR

Via-First Class Mail :

Petitioner

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