



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
SUZANNE SONNEBORN
EXECUTIVE DIRECTOR

MARLON I. BROWN, DPA
ACTING DIRECTOR

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██████████, MI ██████████

Date Mailed: August 28, 2023
MOAHR Docket No.: 23-004352
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 August 23, 2023, from Lansing, Michigan. Petitioner represented himself. The Department was represented by Dania 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 was an ongoing Food Assistance Program (FAP) recipient on May 23, 2023, then the Department received his Redetermination (DHS-1010) form. Exhibit A, p 8.
2. Petitioner receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$██████████ and he reported to the Social Security Administration that his address is ██████ ██████████ ██████ ██████████ Michigan. Exhibit A, pp 13-14.
3. Petitioner is married and his spouse reported to the Social Security Administration that her address is ██████ ██████████ ██████████ Michigan. Exhibit A, p 16.

4. On July 31, 2023, the Department notified Petitioner that he was eligible for a \$107 monthly allotment of Food Assistance Program (FAP) benefits as a household of two including himself and his wife. Exhibit A, p 19.
5. On July 17, 2023, the Department received Petitioner's request for a hearing protesting the reduction of his 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.

FAP group composition is established by determining who lives together, the relationship of the people who live together, whether the people living together purchase and prepare food together or separately, and whether the persons reside in an eligible living situation. Department of Human Services Bridges Eligibility Manual (BEM) 212 (January 1, 2022), p 1.

Spouses who are legally married and live together must be in the same group. BEM 212, p 1.

Petitioner is an ongoing FAP recipient. When the Department discovered that Petitioner was married, the Department placed his spouse in his FAP benefit group and notified Petitioner that he was eligible for a \$107 monthly allotment of FAP benefits as a household of two.

The hearing record contains some evidence that Petitioner and his spouse maintain separate residences and no evidence that they live together. Department policy in BEM 212 requires that spouses be in the same FAP benefit group but only if they live together. The Department's representative testified that Petitioner reported that he was living with his wife, but no evidence was presented on the record that Petitioner and his wife live together.

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 failed to

satisfy its burden of showing that it acted in accordance with Department policy when it determined Petitioner's eligibility for the Food Assistance Program (FAP).

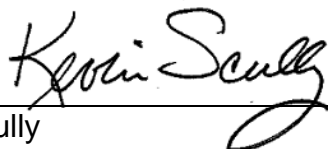
DECISION AND ORDER

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) as of June 1, 2023, and ongoing.
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



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
Hamtramck, MI 48212
**MDHHS-Wayne-55-
Hearings@michigan.gov**

Interested Parties

Wayne 55 County DHHS
BSC4
M. Holden
D. Sweeney
MOAHR

Via-First Class Mail :

Petitioner

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