



GRETCHEN WHITMER
GOVERNOR

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

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ACTING DIRECTOR

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Date Mailed: December 27, 2023
MOAHR Docket No.: 23-008159
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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 December 26, 2023, via conference line. Petitioner was present and was unrepresented. The Department of Health and Human Services (Department) was represented by Markita Mobley, Hearing Facilitator.

ISSUE

Did the Department properly determine Petitioner's Food Assistance Program (FAP) benefit eligibility?

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 FAP recipient.
2. Petitioner was the only member of his household.
3. Petitioner had unearned income in the form of Supplemental Security Income (SSI) benefits and State SSI Payment (SSP) benefits.
4. On November 21, 2023, the Department sent Petitioner a Notice of Case Action informing him that he was eligible for FAP benefits in the amount of \$██████ per month effective October 1, 2023, ongoing (Exhibit A, pp. 27-33).

5. Petitioner submitted a request for hearing disputing the Department's actions.

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.

In this case, Petitioner disputed the Department's calculation of his FAP benefit amount. Specifically, Petitioner argued that the Department incorrectly budgeted his household income. The Department presented a FAP budget to establish the calculation of Petitioner's FAP benefit amount (Exhibit A, pp. 24-26).

All countable earned and unearned income available to the client must be considered in determining a client's eligibility for program benefits and group composition policies specify whose income is countable. BEM 500 (July 2017), pp. 1-5. For FAP benefit cases, the Department includes the gross amount of current Social Security Administration (SSA)-issued SSI as unearned income. BEM 503 (January 2020), p. 34. Whenever an SSA-issued independent living or household of another payment is budgeted, the Department will include the monthly SSP payment amount as unearned income. BEM 503, p. 35. SSI amounts withheld to recoup overpayments due to an Intentional Program Violation (IPV) are also included in the gross amount. BEM 503, p. 33. Amounts deducted by an issuing agency to recover a previous overpayment or ineligible payment are not part of gross income. BEM 500 (July 2017), p. 6. These amounts are excluded as income. BEM 550, p. 6.

Per the budget provided, the Department included █████ in unearned income when determining Petitioner's FAP budget. The Department testified that Petitioner's unearned income amount consisted of his SSI benefit amount of \$████ and his monthly SSP benefit amount of \$████. Upon review of Petitioner's State Online Query (SOLQ) report, the Department testified that Petitioner's net SSI payment was \$████, as his monthly benefit amount was reduced by \$91.40, as a result of a recoupment for an overpayment.

There was no evidence that Petitioner's SSI payment was reduced to recoup an overpayment due to an IPV. Therefore, the Department did not act in accordance with policy when it failed to exclude the SSI overpayment deduction from Petitioner's household income. Thus, the Department failed to properly determine Petitioner's

household income amount. As it follows, the Department failed to properly determine Petitioner's FAP benefit amount.

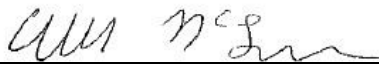
DECISION AND ORDER

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 FAP benefit amount. Therefore, 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. Redetermine Petitioner's FAP eligibility as of October 1, 2023, ongoing;
2. If Petitioner is eligible for additional FAP benefits, issue supplements he is entitled to receive; and
3. Notify Petitioner of its decision in writing.

EM/tm



Ellen McLemore
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
Caryn Jackson
Wayne-Hamtramck-DHHS
12140 Joseph Campau
Hamtramck, MI 48212
**MDHHS-Wayne-55-
Hearings@michigan.gov**

Interested Parties
M. Holden
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Via-First Class Mail :

Petitioner
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