



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

MARLON I. BROWN, DPA
ACTING DIRECTOR

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Date Mailed: November 13, 2023
MOAHR Docket No.: 23-006650
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 November 7, 2023, from Lansing, Michigan. Petitioner represented himself. The Department was represented by Heather Kilpatrick.

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. On August █████ 2023, the Department received Petitioner’s application for assistance as a household of one. Exhibit A, p 7.
2. Petitioner reported on his August █████ 2023, application form that he is disabled. Exhibit A, p 10.
3. Petitioner receives monthly disability retirement payments in the gross monthly amount of \$, █████ Exhibit A, p 44.
4. On August █████ 2023, the Department notified Petitioner that he was eligible for a \$████ monthly allotment of Food Assistance Program (FAP) benefits. Exhibit A, p 46.
5. On September █████ 2023, the Department notified Petitioner that he was eligible for a \$████ monthly allotment of Food Assistance Program (FAP) benefits. Exhibit A, p 57.

6. The Department later determined that Petitioner is eligible for a \$[REDACTED] monthly allotment of Food Assistance Program (FAP) benefits. Exhibit A, p 77.
7. On September 28, 2023, the Department received Petitioner's request for a hearing. Exhibit A, p 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.

On August 21, 2023, Petitioner applied for FAP benefits as a household of one. Petitioner receives monthly retirement payments based on disability in the gross monthly amount of \$[REDACTED]. Petitioner's adjusted gross income of \$[REDACTED] was determined by reducing his gross monthly income by the \$193 standard deduction.

Petitioner is responsible for housing expenses in the monthly amount of \$[REDACTED] and he is entitled to a \$624 standard heat and utility deduction. The shelter deduction is determined by reducing the total of housing expenses and the heat and utility deduction by 50% of the adjusted gross income.

The Department initially classified Petitioner's income as a retirement pension, but later revised that determination and reclassified it as a disability retirement. FAP recipients not over the age of 64 and individuals that are not disabled can receive only a limited shelter deduction. Since Petitioner is disabled, he is entitled to the full \$952 deduction for shelter expenses.

Petitioner's net countable monthly income of \$[REDACTED] was determined by reducing his adjusted gross income by his \$[REDACTED] shelter deduction. A household of one with a net monthly income of \$[REDACTED] is entitled to a \$[REDACTED] monthly allotment of FAP benefits. Department of Health and Human Services Reference Table Manual (RFT) 260 (October 1, 2023).

Petitioner argued that he should be entitled to high food assistance benefits based on his disability and his service to the state of Michigan. Petitioner's grievance centers on dissatisfaction with the Department's current policy. Petitioner's request is not within the scope of authority delegated to this Administrative Law Judge. Administrative Law Judges have no authority to make decisions on constitutional grounds, overrule statutes,


overrule promulgated regulations, or make exceptions to the department policy set out in the program manuals. Furthermore, administrative adjudication is an exercise of executive power rather than judicial power and restricts the granting of equitable remedies. *Michigan Mutual Liability Co. v Baker*, 295 Mich 237; 294 NW 168 (1940).

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 the Food Assistance Program (FAP).

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.

KS/dm



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
Marci Walker
Clinton County DHHS
**MDHHS-Clinton-
Hearings@michigan.gov**

HoldenM

DensonSogbakaN

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MOAHR

Via-First Class Mail :

Petitioner

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