



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

MIKE ZIMMER
DIRECTOR



Date Mailed: March 21, 2016
MAHS Docket No.: 16-000796
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. The Petitioner's request for an adjournment was granted on March 1, 2016, and the hearing was rescheduled as an in-person hearing. After due notice, telephone hearing was held on March 17, 2016, from Lansing, Michigan. Participants on behalf of Petitioner included [REDACTED] and her son [REDACTED]. [REDACTED] (Family Independence Manager) represented the Department of Health and Human Services (Department). Witnesses on behalf of the Department included [REDACTED] (Eligibility Specialist).

ISSUE

Did the Department of Health and Human Services (Department) properly close the Petitioner's Food Assistance Program (FAP) benefits?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Petitioner was an ongoing Food Assistance Program (FAP) recipient.
2. The Petitioner is married to [REDACTED], the father of a child in the Petitioner's benefit group, and he receives mail at the Petitioner's home.
3. On January 19, 2016, the Department notified the Petitioner that it would close her Food Assistance Program (FAP) benefits effective March 1, 2016.

4. On January 26, 2016, the Department received the Petitioner's request for a hearing protesting the closure of her Food Assistance Program (FAP) benefits.

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.

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 resides in an eligible living situation. Spouses who are legally married and live together must be in the same group. Parents and their children under 22 years of age who live together must be in the same group. Living with means sharing a home where family members usually sleep and share any common living quarters such as a kitchen, bathroom, bedroom or living room. Department of Human Services Bridges Eligibility Manual (BEM) 212 (October 1, 2015), pp 1-13.

Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). Moreover, the weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997). In evaluating the credibility and weight to be given the testimony of a witness, the fact-finder may consider the demeanor of the witness, the reasonableness of the witness's testimony, and the interest, if any, the witness may have in the outcome of the matter. *People v Wade*, 303 Mich 303 (1942), cert den, 318 US 783 (1943).

The Petitioner was an ongoing FAP recipient when the Department initiated a Front End Eligibility (FEE) investigation into the size and composition of her benefit group because her reported income is insufficient to cover her reported expenses. The Department determined that the Petitioner is married to [REDACTED] and that her husband lives with her at her home. Department policy requires that spouses and their natural children to be considered as mandatory FAP group members. Based on its finding that [REDACTED] is required to be placed in the Petitioner's FAP group, the Department closed her FAP benefits based the group's total monthly income.

The Petitioner does not dispute that she is married, but argued that she does not live with her husband. It is not disputed that if [REDACTED] income is considered as countable income for the Petitioner's benefit group that the group is not eligible to receive FAP benefits.

The Department presented evidence that [REDACTED] is using the Petitioner's home as his mailing address of record with his employer. The Department presented evidence that utility bills, telephone bills, and cable bills at the Petitioner's home are in the name of [REDACTED]. The Department presented evidence obtained from social media on the internet that suggests that the Petitioner and [REDACTED] are living together.

The Petitioner does not deny that that she is married to [REDACTED] or that her husband uses her home as a mailing address. The Petitioner testified that this is because her husband does not have a stable place to live. The Petitioner does not dispute that bills at her home are in the name of her husband but that this is an arrangement with her husband due to her poor credit history.

The Petitioner testified that she married [REDACTED] for the purposes of adopting his daughter and preventing the biological mother from obtaining custody of that child.

The Petitioner testified that she does not know where her husband lives and that he does not want her to know where he is living. The Petitioner testified that her husband is in her home periodically to care for the children while she attends classes but that he does not live there.

The Petitioner and her husband remain married regardless of the nature of their ongoing relationship. As spouses, the Department requires them to be placed in the same FAP benefit group if they are living together as directed by BEM 212. Furthermore, the amount of financial support the husband provides the entire household is not relevant but all of his income is countable towards their eligibility for benefits as a mandatory group member.


This Administrative Law Judge finds that the evidence on the record as a whole supports a finding that the Petitioner lives with her husband no less than part of each month. No evidence was presented that the husband has another residence where he lives all of the time. Therefore, the Department was acting in accordance with BEM 212 when it determined that the husband is a mandatory member of the Petitioner's FAP benefit group.

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 closed the Petitioner's Food Assistance Program (FAP) benefits.

DECISION AND ORDER

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

KS/las



Kevin Scully
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

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 Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS 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. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088; Attention: MAHS Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

DHHS

[REDACTED]

[REDACTED]

Petitioner

[REDACTED]