



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: April 29, 2016
MAHS Docket No.: 16-004100
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on April 27, 2016, from Detroit, Michigan. The Petitioner was represented by herself. [REDACTED]; the Petitioner's mother, also appeared as a witness. The Department of Health and Human Services (Department) was represented by [REDACTED], Family Independence Specialist, and [REDACTED], Hearing Facilitator. [REDACTED], from the Office of Inspector General, also appeared.

ISSUE

Did the Department properly close the Petitioner's Food Assistance Program (FAP) case?

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 applied for FAP on January 26, 2016. At the time of the application, the Petitioner advised the Department that she was living at [REDACTED] in [REDACTED]. The application also notes that the Petitioner's mailing address is [REDACTED]. Exhibit 4.
2. The Petitioner's mother, Trina Bolden, lives at [REDACTED], [REDACTED]. The Petitioner listed [REDACTED], as her address, which is across the street from her mother's.

3. The Petitioner entered into a lease to rent the premises at [REDACTED] on December 9, 2016. Exhibit 3. At the time the Petitioner signed the lease, she was [REDACTED] years of age.
4. The Petitioner also provided the Department a Shelter Verification, received December 10, 2015. The verification indicated that Petitioner paid rent of \$ [REDACTED] per month and indicated that she moved in on December 7, 2015. The form was signed by the property manager, [REDACTED]. Exhibit 2.
5. The Department attempted to verify the Shelter Verification completed by [REDACTED] but was unable to reach him at the number provided on the shelter verification. Further the alleged owner of the house was living at [REDACTED], and was also interviewed by the OIG. The premises found [REDACTED] was a duplex.
6. The Department Issued a Notice of Case Action dated March 15, 2016, closing the Petitioner's FAP case effective April 1, 2016. The case was closed because the Petitioner failed to verify or allow the Department to verify information necessary to determine eligibility for the program. Exhibit 6.
7. The Petitioner never moved into [REDACTED], because she could not have DTE activate the utilities in her name.
8. The Department, through the OIG, conducted an investigation on March 14, 2016, to determine whether the Petitioner was living at the address stated on the Application. Exhibit 5.
9. During the OIG investigation, the Petitioner's mother advised the OIG that her daughter, who is the Petitioner, was her care provider and that she was to live across the street to [REDACTED]; but DTE would not approve service until they could establish residency. At the time of this interview on March 14, 2016, the Petitioner was living with her mother at [REDACTED].
10. On December 23, 2015, the Petitioner applied for FAP on her own behalf and was denied because she was living with her mother and was under 22 years of age. Exhibit 5.
11. The Petitioner requested a timely hearing on March 18, 2016.

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, the Petitioner applied January 26, 2016, for FAP on behalf of herself and her child after turning the age of [REDACTED] after she had signed a lease to move into a duplex across the street from her mother's house on December 9, 2015. As part of the information submitted either with her FAP application or pursuant to verification requests by the Department, the Petitioner provided the Department the lease, which she signed on December 9, 2015, and a Shelter Verification executed by the property manager, [REDACTED] on December 7, 2015, and received by the Department on December 10, 2015. The Shelter Verification indicated that Petitioner moved into the house on December 7, 2015, and that she was paying \$ [REDACTED] per month rent. Exhibits 2 and 3. The property that was rented by the Petitioner is very close to, if not across the street from, the Department of Health and Human Services office. While the house was a duplex, one of the sides of the duplex was boarded up. The Petitioner's mother testified at the hearing that the house was to be opened and prepared for occupancy once the utilities were turned on.

At the hearing, it was determined that the Petitioner was not living at [REDACTED], [REDACTED], at the time she signed her application and had never lived there because she could not get the DTE utilities turned on. The Petitioner did not advise the Department that she was not living at the address on the application until March 15, 2016, when the OIG conducted an interview at the Petitioner's mother's home. At that time, the Petitioner's mother informed the OIG that her daughter was living with her and that she had not been able to move into [REDACTED] due to problems with DTE. Thereafter, the Department issued a Notice of Case Action on March 15, 2016, closing the Petitioner's case for failure to verify information required by the Department necessary to determine eligibility. Exhibit 6.

In this case, based upon the evidence presented by the Department, it is clear that it properly closed the Petitioner's FAP case due to the fact that after the OIG investigation, it was clear that Petitioner was not entitled to her own case as she was residing with her mother and needed to be included in that household's group. Some of the notes included in the hearing record indicate that the Petitioner lived from time to time at a friend's house. Policy provided in BEM 212 states that even if the Petitioner was temporarily absent, such absence does not remove her as a group member.

BEM 212 provides:

Food Assistance Program group composition is established by determining all of the following:

1. Who lives together.

2. The relationship(s) of the people who live together.
3. Whether the people living together purchase and prepare food together or separately.
4. Whether the person(s) resides in an eligible living situation; see **LIVING SITUATIONS** in this item.

RELATIONSHIPS

The relationship(s) of the people who live together affects whether they must be included or excluded from the group. First, determine if they **must** be included in the group. If they are **not** mandatory group members, then determine if they purchase and prepare food together or separately.

Parents and Children

Children include natural, step and adopted children.

Parents and their children **under** 22 years of age who live together **must** be in the same group regardless of whether the child(ren) have their own spouse or child who lives with the group.

Note: For ongoing and intake applications where the child(ren) are not yet 22, they are potentially eligible for their own case, the month after turning 22.

Note: 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. Persons who share **only** an access area such as an entrance or hallway or non-living area such as a laundry room are **not** considered living together.

A person who is temporarily absent from the group is considered living with the group.

A person's absence is temporary if all of the following are true:

- The person's location is known.
- The person lived with the group before an absence (newborns are considered to have lived with the group).
- There is a definite plan for return.

The absence has lasted or is expected to last 30 days or less.

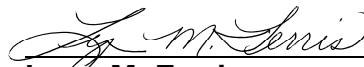
Based upon the clear testimony that the Petitioner resided with her mother at all times pertinent to this matter, she must be included in her stepfather's group as she is under 22 and lives in her mother's home.

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 FAP case based upon the fact that she was residing with her mother and not residing separately on her own with her child.

DECISION AND ORDER

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

LMF/jaf



Lynn M. Ferris
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]

Petitioner

[REDACTED]

cc:

[REDACTED]