



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: September 13, 2017
MAHS Docket No.: 17-009614
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Denise McNulty

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, an in-person hearing was held on September 11, 2017, from Detroit, Michigan. The Petitioner was present and represented himself. The Department of Health and Human Services (Department) was represented by [REDACTED], Eligibility Specialist/Lead Worker.

ISSUE

Did the Department properly deny Petitioner's application for Food Assistance Program (FAP) benefits for [REDACTED]?

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 benefit recipient. Petitioner's minor children were recipients of FAP benefits on their mother's case.
2. On [REDACTED], Petitioner submitted an application for FAP benefits for himself and his children.
3. On [REDACTED], the Department sent Petitioner a Notice of Case Action denying benefits for [REDACTED] on the new application. Petitioner and the children already received FAP benefits for April on separate cases. Petitioner did not have any court orders placing the children with him and they were on their mother's FAP case.

4. On [REDACTED], Petitioner submitted a Request for Hearing challenging 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.

Petitioner requested a hearing to dispute the Department's denial of his application for FAP benefits for himself and his children for the month of [REDACTED]. Petitioner had an open FAP case on which he had received his April allotment of FAP benefits. [Exhibit A, pp. 5-6] Petitioner confirmed he received FAP benefits for [REDACTED]. The Department testified that the children were on the mother's FAP case for the month of [REDACTED]. [Exhibit A, pp. 7-9].

Parents and their children **under** 22 years of age who live together **must** be in the same group. BEM 212 (January 2017), p. 1. A person who is temporarily absent from the group is considered living with the group. BEM 212 (January 2017), p.3. When an absence has lasted or is expected to last 30 days or less it is considered temporary.

Additionally, the Department is required to determine who the primary caretaker is when a child spends time with multiple caretakers. Only one person can be the primary caretaker and the other caretaker(s) is/are considered the absent caretaker(s). The child is **always** in the FAP group of the primary caretaker. If the child's parent(s) is/are living in the home, he/she must be included in the FAP group. BEM 212 (January 2017), pp. 3-4. If primary caretaker status is questionable or disputed, verification is needed. *Id.* at p. 4. Since Petitioner submitted an application for benefits for his children who were in their mother's FAP group, a re-evaluation of the primary caretaker status was necessary. The Department did not receive any notification from the mother that there had been a change in group composition in her case. Petitioner did not provide, nor does he currently have, a court order placing his children in his custody.

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 denied Petitioner's application for a FAP benefit case for the month of [REDACTED], where he and his two children were to be the group members.

DECISION AND ORDER

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



DM/jaf

Denise McNulty
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

