



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: July 25, 2018
MAHS Docket No.: 18-006015
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Vicki Armstrong

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 July 19, 2018, from Lansing, Michigan. Petitioner and her mother, [REDACTED], personally appeared and testified.

The Department of Health and Human Services (Department) was represented by Assistance Payment Supervisor Charletta Toteh and Eligibility Specialist Rochelle Preston. Ms. Toteh and Ms. Preston personally testified on behalf of the Department. The Department submitted eight exhibits which were admitted into evidence. The record was closed at the conclusion of the hearing.

ISSUE

Did the Department properly deny Petitioner's Food Assistance Program (FAP) application?

FINDINGS OF FACT

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

1. On [REDACTED], 2018, Petitioner applied for FAP benefits. [Dept. Exh. 4].
2. During the FAP interview of May 21, 2018, Eligibility Specialist Rochelle Preston testified that Petitioner told her that she was living with her mother. [Testimony of [REDACTED]].

3. On June 18, 2018, the Department mailed Petitioner a Notice of Case Action informing her that her May 21, 2018, FAP application had been denied. [Dept. Exh. 2-3].
4. Petitioner testified during the hearing that she was only at her Mother's for the weekend. [Testimony of ██████████].
5. ██████████, Petitioner's mother, testified during the hearing that Petitioner's grandmother kicked her out. ██████████ stated she allows Petitioner to "come by on the weekends so she can wash up." According to ██████████, Petitioner is mentally disabled which is why she accompanied Petitioner to the hearing. [Testimony of ██████████].
6. On June 15, 2018, Petitioner submitted a Request for Hearing, contesting the denial of FAP benefits. [Request for Hearing].

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.

The relationship of the people who live together affects whether they must be included or excluded from the FAP eligibility determination group. BEM 212, p 1 (1/1/2017).

FAP group composition is established by determining all of the following:

- Who lives together.
- The relationship(s) of the people who live together.
- Whether the people living together purchase and prepare food together or separately.
- Whether the person(s) resides in an eligible living situation.

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. BEM 212, p 3. The phrase "purchase and prepare food together" is meant to describe per-

sons who customarily share food in common. BEM 212, p 5. Persons customarily share food in common if:

- They each contribute to the purchase of food.
- They share the preparation of food, regardless of who paid for it.
- They eat from the same food supply, regardless of who paid for it. BEM 212, p 6.

In general, persons who live together and purchase and prepare food together are members of the same FAP eligibility determination group. BEM 212, p 6.

Moreover, 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. Children include natural, step and adopted children. BEM 212, p 1.

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 this case, Eligibility Specialist Ms. Preston called Petitioner as required by policy, for an interview following the submission of her FAP application. Eligibility Specialist Ms. Preston credibly testified during the hearing that Petitioner told her that she was living with her mother. Petitioner's response to Ms. Preston's testimony that she (Petitioner) told her that she was living with her mother was, "I was there for the weekend." The interview occurred on May 21, 2018, a Monday, not the weekend.

██████████ indicated during the hearing that Petitioner is mentally disabled. No evidence was submitted during the hearing to support the assertion. On the May 21, 2018 FAP application, a question asked if Petitioner required assistance with communication and Petitioner wrote, "I don't need assistance."

Based upon the credible testimony of the Department representative, and Petitioner's attempt to explain away the statement that she was living with her mother, by testifying "I was there for the weekend," when in fact the interview occurred on a Monday, this Administrative Law Judge finds the Department properly denied Petitioner's May 21, 2018 FAP application.

DECISION AND ORDER

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

VLA/hb



Vicki Armstrong
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) 763-0155; 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

Dora Allen
14061 Lappin
Detroit, MI 48205

Wayne County (District 76), DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

[REDACTED]
[REDACTED]
[REDACTED], MI [REDACTED]