



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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Date Mailed: March 1, 2019
MAHS Docket No.: 19-000440
Agency No.: ██████████
Petitioner: ██████ ██████

ADMINISTRATIVE LAW JUDGE: Vicki L. 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 February 27, 2019, from Lansing, Michigan. Petitioner personally appeared and testified.

The Department of Health and Human Services (Department) was represented by Assistance Payment Supervisor Laura Joiner and Eligibility Specialist Mary Martinez. Ms. Martinez testified on behalf of the department. The department submitted 18 exhibits which were admitted into evidence. The record was closed at the conclusion of the hearing.

ISSUE

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

FINDINGS OF FACT

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

1. On ██████████ ██████████ 2018, Petitioner submitted a FAP application to the department. [Dept. Exh. 3-13].
2. On ██████████ ██████████ 2018, the department completed the required FAP interview with Petitioner. [Hearing Summary].

3. On December 18, 2018, the department mailed Petitioner a Notice of Case Action, denying Petitioner's application for FAP benefits because of his institutional status. [Dep. Exh. 14-17].
4. On January 18, 2019, Petitioner requested a hearing to contest the denial of FAP benefits. [Dept. Exh. 2].
5. On February 27, 2019, Petitioner credibly testified during the hearing that he lived in an Adult Foster Care Home. Petitioner stated that he did not like the food served at the home and he wanted pizza and to go to Walmart. [Testimony of ██████████ ██████████ February 27, 2019].

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.

According to department policy, BEM 215, Adult Foster Care Home's must be licensed to offer either, or both, of the following levels of care:

Domiciliary care. This includes meals, lodging, and supervision of basic living activities, such as eating, bathing and dressing.

Personal care. This includes meals, lodging, supervision and personal assistance in basic daily living activities. BEM 215, p 1 (4/1/2017).

The local office must determine if the group living facility is acceptable before certifying eligibility for residents. BEM 615, p 5. The local office must maintain a list of group living facilities where residents may receive FAP if otherwise eligible. BEM 615, p 5.

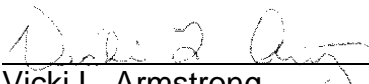
In this case, the Eligibility Specialist explained that when an Adult Foster Care facility provides a resident's meals, the resident is not eligible for FAP assistance. Petitioner acknowledged that he did receive his meals from the facility, but he did not like them.

Based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, this Administrative Law Judge finds that the Department acted in accordance with Department policy when it denied Petitioner's FAP application.

DECISION AND ORDER

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

VLA/nr



Vicki L. Armstrong
Administrative Law Judge
for Robert Gordon, 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

Jeannene Gatties
57150 Cty. Rd. 681
Hartford, MI
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Van Buren County DHHS- via electronic
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Petitioner

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