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GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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[REDACTED]

Date Mailed: April 19, 2019
MAHS Docket No.: 19-002807
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 April 18, 2019, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by David Rost, specialist.

ISSUE

The issue is whether MDHHS properly denied Petitioner's application for Food Assistance Program (FAP) application due to Petitioner's student status.

FINDINGS OF FACT

The administrative law judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. As of January 2019, Petitioner received ongoing employment income and worked the following biweekly hours: 16 (pay period ending January 19, 2019), 12 (pay period ending February 2, 2019), 27 (pay period ending February 16, 2019), and 24 (pay period ending March 2, 2019). Exhibit A, pp. 7-8.
2. On February 13, 2019, Petitioner applied for FAP benefits based on a household size of 1 person. Petitioner's application reported that Petitioner was a student. Exhibit A, pp. 9-14.

3. As of February 13, 2019, Petitioner was enrolled in a vocational school at least half time and between the ages of 18-49 years.
4. As of February 13, 2019, Petitioner was none of the following: performing workstudy, a caretaker to a child, and/or performing on-the-job training.
5. On March 5, 2019, MDHHS denied Petitioner's application for FAP benefits on the basis that Petitioner was in student status and not eligible to receive FAP benefits. Exhibit A, pp. 4-6.
6. On [REDACTED], 2019, Petitioner requested a hearing to dispute the denial of FAP benefits.

CONCLUSIONS OF LAW

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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute an application denial of FAP benefits. A Notice of Case Action (Exhibit A, pp. 4-6) stated that MDHHS denied Petitioner's application because of Petitioner's student status.

A person in student status must meet certain criteria in order to be eligible for assistance. A person is in student status if he/she is:

- Age 18 through 49; and
- Enrolled half-time or more in either a:
 - Vocational, trade, business, or technical school that normally requires a high school diploma or an equivalency certificate.
 - Regular curriculum at a college or university that offers degree programs regardless of whether a diploma is required. BEM 245 (January 2018), pp. 3-4.

Petitioner testimony acknowledged that she was enrolled full-time in a vocational school and that she was between the ages of 18-49 years. Thus, MDHHS properly determined Petitioner was in student status.

In order for a person in student status to be eligible for FAP benefits, he or she must meet one of the following criteria:

- Receiving Family Independence Program benefits
- Enrolled in an institution of higher education as a result of participation in:
 - A JTPA program.

- A program under section 236 of the Trade Readjustment Act of 1974 (U. S. C. 2296).
- Another State or local government employment and training program.
- Physically or mentally unfit for employment.
- Employed for at least 20 hours per week and paid for such employment.
- Self-employed for at least 20 hours per week and earning weekly income at least equivalent to the federal minimum wage multiplied by 20 hours.
- Participating in an on-the-job training program. A person is considered to be participating in an on-the-job training program only during the period of time the person is being trained by the employer.
- Participating in a state or federally-funded work study program (funded in full or in part under Title IV-C of the Higher Education Act of 1965, as amended) during the regular school year (i.e. work study).
- Providing more than half of the physical care of a group member under the age of six.
- Providing more than half of the physical care of a group member age six through eleven and the local office has determined adequate child care is not available to:
 - Enable the person to attend class and work at least 20 hours per week.
 - Participate in a state or federally-financed work study program during the regular school year.
- A single parent enrolled full-time in an institution of higher education who cares for a dependent under age 12. This includes a person who does not live with his or her spouse, who has parental control over a child who does not live with his or her natural, adoptive or stepparent.

Id., pp. 3-5.

During the hearing, all possible student status exceptions were discussed. The potentially relevant exceptions are discussed below.

Petitioner's employment hours were considered in exempting Petitioner from student status. MDHHS policy is not known to specify what time period must be considered in determining a client's average work hours. In lieu of specifics, the same timeframes used to project employment income will be applied.

MDHHS is to use the past 30 days to project employment income if it appears to accurately reflect income from the benefit month. BEM 505 (October 2017) p. 6. A 60-90-day period can be used if the past 30 days is not a fair projection of income from the benefit month and the past 60-90 days appears to accurately reflect income from the benefit month.

As of March 5, 2019 (the date MDHHS denied Petitioner's application), Petitioner worked a total of 51 hours in the previous two biweekly pay periods; the average hours worked is 12.75/week. Looking back 8 weeks, Petitioner worked a total of 79 hours for an average under 10 hours/week. Given the evidence, Petitioner did not work an

average of 20 hours/week. Thus, MDHHS properly did not apply a work exception to Petitioner's student status.

Petitioner testified that part of her education is performing clinical work. Presumably, Petitioner's "clinicals" involve on-site training at a medical facility. Consideration of applying an "on-the-job training" exception was rejected because Petitioner's clinical studies are part of her education and not tied directly to any guarantee of employment.

Given the evidence, Petitioner was in student status and did not qualify for any exceptions. As the only member of her FAP group, Petitioner was not otherwise eligible to receive FAP benefits. Thus, MDHHS properly denied Petitioner's application for FAP benefits. As discussed during the hearing, Petitioner is encouraged to reapply if her employment has recently increased to an average of 20 hours/week.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly denied Petitioner's application for FAP benefits dated February 13, 2019. The actions taken by MDHHS are **AFFIRMED**.

CG/cg



Christian Gardocki

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

Via Email:

MDHHS-Oakland-2-Hearings
M. Holden
D. Sweeney
BSC4- Hearing Decisions
MAHS

Petitioner – Via First-Class Mail:

[REDACTED]
[REDACTED]
[REDACTED]