



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

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Date Mailed: May 17, 2019
MOAHR Docket No.: 19-003689
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Janice Spodarek

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 May 8, 2019, from Lansing, Michigan. Petitioner was represented by ██████████. The Department of Health and Human Services (Department) was represented by Kathleen Hooper, Aps, and Calev Mins, ES.

The Department's Exhibit A.20 was admitted into the record.

ISSUE

Did the Department properly deny Petitioner's FAP application?

FINDINGS OF FACT

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

1. At all relevant times to the time period at issue herein, Petitioner and her spouse were group members of the same FAP case, Case No. ██████████. Petitioner and her spouse reside at the same address.
2. On ██████████ 2019, Petitioner applied for a second FAP case.
3. On March 27, 2019, the Department denied Petitioner's request on the grounds that Petitioner is already receiving benefits on her husband's case. At the time of the application, Petitioner and her husband were married, and living at the same address.

4. On March 27, 2019, a notice was issued with an incorrect reason for denial, stating that Petitioner failed to verify eligibility.
5. On April 4, 2019, Petitioner filed a hearing request stating that her application was “properly filed”, and that no verification request was made.
6. Petitioner failed to show for the prehearing conference.

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.

Applicable to this case, group composition policy for FAP is found primarily in BEM 212. Under this policy, Petitioner and her spouse are mandatory group members. There is no policy that would entitle an individual to collect welfare benefits twice—under Petitioner’s spouse’s case, and a case of her own. Petitioner offered no law or policy that would entitle her remove herself from being a mandatory group member as required by law and policy. Petitioner did not meet her burden of proof in this matter.


While the Department’s actual reason for denial was not specific, Petitioner did not verify any reason that she would be eligible to receive benefits under her own case. Even so, an incorrect reason on a denial notice will not entitle an individual to prevail where not otherwise eligible. As such, the Department’s denial is upheld.

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 denial was correct and is upheld.

DECISION AND ORDER

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

JS/dh



Janice Spodarek
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 Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR 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. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR 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

Renee Swiercz
51111 Woodward Ave 5th Floor
Pontiac, MI 48342

Oakland County (District 4), DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

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