



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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██████, MI ██████

Date Mailed: February 13, 2020
MOAHR Docket No.: 20-000355
Agency No.: ██████████
Petitioner: ██████ ██████

ADMINISTRATIVE LAW JUDGE: Landis Lain

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 13, 2020, from Lansing, Michigan. The Petitioner was represented by Petitioner, ██████ ██████. The Department of Health and Human Services (Department or Respondent) was represented by Crystal Hackney, Assistance Payments Worker and Kenya Johnson, Eligibility Specialist.

Respondent's Exhibit A pages 1-13 were admitted as evidence.

ISSUE

Did the Department properly cancel Petitioner's Food Assistance Program (FAP) benefits?

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 a FAP benefit recipient.
2. On ██████████ ██████ 2019, Petitioner submitted a mid-certification application and a BRIDGES Change Report.
3. Petitioner provided a rental agreement and a statement from the landlord that Petitioner is residing in a room and board housing and receiving three meals and two snacks per day.

4. Based on the room and board living arrangement an eligibility determination was made.
5. On December 17, 2019, the Department sent Petitioner a DHS 1605 Notice of Case Action indicating that effective February 2, 2020 Petitioner's FAP benefits would be closed based upon her institutional status.
6. On January 13, 2020, Petitioner filed a Request for Hearing to contest the Department's negative action.
7. On January 24, 2020, the Michigan Office of Administrative Hearings and Rules received a Hearing summary and attached documents.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance has been denied. MAC R 400.903(1). Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

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 Michigan Office of Administrative Hearings and Rules (MOAHR) may grant a hearing for any of the following:

- Denial of an application and/or supplemental payments.
- Reduction in the amount of program benefits or service.
- Suspension or termination of program benefits or service.
- Restrictions under which benefits, or services are provided.

- Delay of any action beyond standards of promptness.
- For FAP only, the current level of benefits or denial of expedited service. BAM 600 (April 1, 2017), pp 3-4.

The client or AHR has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received in the local office within the 90 days. BAM 600, page 6

Pertinent FAP policy indicates:

A person in a facility which provides its residents a majority of their meals can qualify for FAP if the facility:

- Is authorized by the Food and Nutrition Service (FNS) to accept Food Assistance; or
- Is an eligible group living facility as defined in Bridges Eligibility Manual (BEM) 615? The resident must also meet the criteria in the ELIGIBLE PERSONS section in BEM 617. (BEM 265 page 1)

Residents of certain group living facilities can qualify for State Disability Assistance (SDA) and/or Food Assistance Program (FAP). This item defines these facilities and the programs residents may be eligible for. BEM 616 and 617 provide special eligibility and budgeting rules. BAM 430 has instructions for authorizing payments to facilities. BEM 615, page 1

AFCs must be licensed by the License and Regulatory Affairs (LARA) Bureau of Community and Health Systems (BCHS) 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.

In this case, Petitioner provided documentation that she was receiving meals and snacks everyday as a part of her rental agreement.

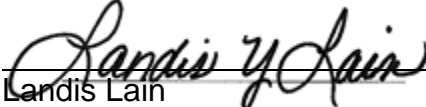
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department has established by the necessary competent, material and substantial evidence on the record that it was acting in accordance with Department policy when it determined that Petitioner was not eligible for a Food Assistance Program benefits because of

institutional status. The Department has established its case by a preponderance of the evidence.

DECISION AND ORDER

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

LL/nr



Landis Lain
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 Office of Administrative Hearings and Rules
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

