



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: March 3, 2020
MOAHR Docket No.: 20-000685
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, telephone hearing was held on February 27, 2020, from Lansing, Michigan. Petitioner represented herself. The Department was represented by Melisa Johnstone and Walter Broadworth.

ISSUE

Did the Department of Health and Human Services (Department) properly close 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. On [REDACTED] 2019, the Department received Petitioner's application for Food Assistance Program (FAP) benefits where she reported living with three children. Exhibit A, pp 1-7.
2. A Department investigator interviewed Petitioner and the father of her children and determined that the father was living in Petitioner's home occasionally. Exhibit A, pp 9-11.
3. On January 13, 2020, the Department notified Petitioner that she was not eligible for Food Assistance Program (FAP) benefits effective February 1, 2020. Exhibit A, pp 12-15.
4. On January 21, 2020, the Department received Petitioner's request for a hearing protesting the closure of her Food Assistance Program (FAP) benefits.

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.

A person under 22 years of age who is living with his or her natural or adoptive parent(s) or step-parent(s) must be considered as customarily purchasing food and preparing meals with the others, even if they do not do so, and thus must be included in the same household. 7 CFR 273.1(b)(1).

FAP group composition is established by determining who lives together, the relationship of the people who live together, whether the people living together purchase and prepare food together or separately, and whether the persons reside in an eligible living situation. Parents and their children under 22 years of age who live together must be in the same group. Department of Human Services Bridges Eligibility Manual (BEM) 212 (July 1, 2019), p 1.

On [REDACTED] 2019, the Department received Petitioner's application for FAP benefits. Petitioner reported to the Department that she was living with three children.

While investigating Petitioner's eligibility for FAP benefits, the Department discovered that the father of Petitioner's children lives with Petitioner and the children occasionally.

It was not disputed that the father does not live in Petitioner's home exclusively.

However, federal regulations and Department policy do not set a threshold for an adult parent to be considered "living with" a child except for the purposes of determining which caretaker is to be considered the "primary" caretaker. In this case, whether Petitioner or her children's father is to be considered the "primary" caretaker is not relevant. If the father is "living with" his children for any part of the month, Department policy supports a finding that the father must be in the same FAP household as the children.

It was not disputed that if the children's father is part of their FAP household, that the household is not eligible for FAP benefits based on total household income.

Petitioner disputed that the father is "living with" the household but is only a child care provider.

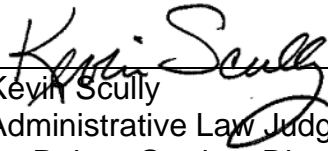
However, this Administrative Law Judge finds that the hearing record supports a finding that the children's father is "living with" the children for a portion of each month and does so on a regular basis, making him a mandatory household member for the purposes of determining the household's eligibility for FAP benefits.

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 acted in accordance with Department policy when it closed Petitioner's Food Assistance Program (FAP) benefits.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.

KS/nr



Kevin Scully
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

DHHS

Tamara Little
301 E. Louis Glick Hwy.
Jackson, MI
49201

Jackson County DHHS- via electronic mail

BSC4- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

Petitioner

[REDACTED]
[REDACTED], MI