



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]

Date Mailed: June 18, 2020
MOAHR Docket No.: 20-002907
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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 June 11, 2020, from Detroit, Michigan. Petitioner was present and represented himself. The Department of Health and Human Services (Department) was represented by Aundrea Jones, Hearing Facilitator.

ISSUE

Did the Department properly deny Petitioner's Food Assistance Program (FAP) benefit 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. On [REDACTED], 2020, Petitioner submitted an application for FAP benefits (Exhibit A, pp. 5-15).
2. On [REDACTED], 2020, Petitioner completed an interview related to his FAP application (Exhibit A, pp. 20-21).
3. Petitioner was the only member of his FAP group.
4. Petitioner was a fulltime college student.

5. On January 2, 2020, the Department sent Petitioner a Notice of Case Action informing him that his application for FAP benefits was denied (Exhibit A, pp. 22-26).
6. On March 23, 2020, Petitioner submitted a requesting for hearing disputing the Department's actions.

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.

In this case, Petitioner submitted an application for FAP benefits on [REDACTED], 2019. Petitioner completed an interview on [REDACTED], 2020, related to his FAP application. At the interview, Petitioner stated he was the only member of his FAP group. Petitioner also notified the Department that he was a fulltime college student and was not employed. As a result, the Department denied Petitioner's application, as he was an ineligible individual in student status.

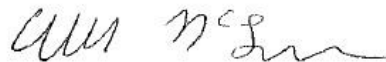
A person is in student status if she is: age 18 through 49 and enrolled half-time or more in a: vocational, trade, business, or technical school that normally requires a high school diploma or an equivalency certificate, or a regular curriculum at a college or university that offers degree programs regardless of whether a diploma is required. BEM 245 (January 2020), p. 3-4. In order for a person in student status to be eligible, they must meet one of the following criteria: (i) receiving FIP; (ii) enrolled in an institution of higher education as a result of participation in a Job Training Partnership Act (JTPA), a program under the Trade Readjustment Act or another state or local government employment and training program; (iii) physically or mentally unfit for employment; (iv) employed for at least an average of 20 hours per week and paid for such employment; (v) self-employed for at least an average of 20 hours per week and earning an average weekly income at least equivalent to the federal minimum wage multiplied by 20 hours; (vi) participating in a state of federally-funded work study program during the regular school year; (vii) providing more than half of the physical care of a group member under the age of six; (viii) 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 or

participate in a state or federally-financed work study program during the school year; or (ix) a single parent enrolled full-time in an institution of higher education who cares for a dependent under age 12. BEM 245, p. 5. For the care of a child under age six, consider the student to be providing physical care as long as he or she claims primary responsibility for such care, even though another adult may be in the FAP group. BEM 245, p. 5.

At the hearing, Petitioner confirmed that he was a fulltime college student. Petitioner also stated he was not employed, nor did he meet any of the other qualifications set forth by BEM 245 for an individual in student status to be eligible for FAP benefits. As Petitioner was the only member of his group, the Department acted in accordance with policy when it denied Petitioner's FAP application.

DECISION AND ORDER

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 denied Petitioner's FAP benefit application. Accordingly, the Department's decision is **AFFIRMED**.



EM/cg

Ellen McLemore

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

Via Email:

MDHHS-Wayne-18-Hearings
M. Holden
D. Sweeney
BSC4- Hearing Decisions
MOAHR

Petitioner – Via First-Class Mail:

