



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
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[REDACTED]

Date Mailed: March 26, 2019
MAHS Docket No.: 19-001655
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 March 21, 2019, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Hiba Murray, hearing facilitator.

ISSUE

The issue is whether MDHHS properly determined Petitioner's group composition for purposes of Food Assistance Program (FAP) eligibility.

FINDINGS OF FACT

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

1. Through December 2018, Petitioner was an ongoing FAP recipient based on a group which included her grandchild and son (hereinafter, "Son").
2. On November 29, 2018, Petitioner submitted to MDHHS an application which reported Petitioner as the only household member. Exhibit A, pp. 2-7.
3. On January 16, 2019, MDHHS determined Petitioner was eligible for FAP benefits, effective January 2019, based on a 1-person FAP group.

4. On February 14, 2019, Petitioner requested a hearing alleging that MDHHS should have factored a group size of 3 persons. Exhibit A, p. 13.

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 the group composition for her FAP eligibility for January 2019. A Notice of Case Action dated January 16, 2019, stated that only Petitioner was factored in her FAP eligibility. Exhibit A, pp. 10-11.

FAP group composition is established by determining all of the following: who lives together, the relationship(s) of the people who live together, whether the people living together purchase and prepare food together or separately, and whether the person(s) resides in an eligible living situation. BEM 212 (January 2017), p. 1. Generally, persons who live together, and buy and prepare food together are members of the same FAP group. *Id.*, p. 6.

The only dispute in the present case concerned who lived with Petitioner as of January 2019. Petitioner's hearing request alleged that MDHHS should have included her son and grandchild in the FAP determination.

Petitioner testimony conceded that her grandchild has not lived with her throughout 2019. When asked why she claimed otherwise, Petitioner stated that she expects that her grandchild will eventually live with her. Eventually living with Petitioner does not equate to living with Petitioner. Thus, MDHHS properly did not include Petitioner's grandchild as a group member.

Petitioner testified that her son has consistently lived with her. Petitioner presented no corroborative evidence (e.g. school documentation listing her as the caretaker). Of her testimony.

MDHHS contended removal of Petitioner's children and grandchild from her FAP group was prompted by Petitioner's own reporting. MDHHS testimony indicated that a specialist documented that Petitioner reported to MDHHS on January 16, 2019, that her children no longer lived with her. MDHHS also presented Petitioner's application from November 2018 which reported no children in Petitioner's household. When asked about her application, Petitioner claimed she did not submit the application and she cannot imagine who did. Notably, the application included Petitioner's personal information such as date of birth and social security number. Though it is theoretically

possible that an unknown person submitted to MDHHS an application without Petitioner's knowledge, no known motive for such an act can be imagined. Given the evidence, it is found that Petitioner submitted the application to MDHHS on November 29, 2018.

The evidence established that Petitioner twice reported to MDHHS living with no other persons. Petitioner's reporting properly prompted MDHHS to determine Petitioner's FAP eligibility based on a group size of one person.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly determined Petitioner's FAP eligibility based on a group size of one person. 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- Wayne-19-Hearings
M. Holden
D. Sweeney
BSC4- Hearing Decisions
MAHS

Petitioner – Via First-Class Mail:

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