



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: August 21, 2019  
MOAHR Docket No.: 19-007548  
Agency No.: ██████████  
Petitioner: ██████████

**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 August 14, 2019, from ██████████ Michigan. Petitioner appeared and was unrepresented. ██████████ Petitioner's mother, testified on behalf of Petitioner. The Michigan Department of Health and Human Services (MDHHS) was represented by Candice Bennis, hearing facilitator.

**ISSUE**

The issue is whether MDHHS properly processed Petitioner's application requesting Food Assistance Program (FAP) benefits dated April 29, 2019.

**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 April 29, 2019, Petitioner applied for FAP benefits. Petitioner reported living with his mother and being aged under 22 years.
2. As of April 29, 2019, Petitioner intended on living with his mother for longer than 30 days.
3. As of April 29, 2019, Petitioner's mother received ongoing FAP benefits.
4. On July 11, 2019, Petitioner requested a hearing to dispute MDHHS not processing Petitioner's FAP eligibility separately from his mother's FAP eligibility. Petitioner also requested a hearing to dispute MA eligibility.

5. On August 14, 2019, during an administrative hearing, Petitioner withdrew his dispute concerning MA benefits.
6. As of August 14, 2019, MDHHS did not open a FAP case with Petitioner as a grantee.

### **CONCLUSIONS OF LAW**

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. 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 a determination of MA benefits. Petitioner testified that MDHHS favorably resolved his dispute and that he no longer needed a hearing concerning MA benefits. MDHHS had no objections to Petitioner withdrawing his dispute concerning MA benefits. Based on Petitioner's withdrawal, Petitioner's hearing request concerning MA benefits will be dismissed.

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 also requested a hearing to dispute an alleged failure of MDHHS to process Petitioner's application dated April 29, 2019, requesting FAP benefits. Petitioner's testimony expressed an expectation that MDHHS consider his FAP eligibility separately from his mother's ongoing FAP benefit case. MDHHS stated that Petitioner was not entitled to receive FAP benefits separately from his mother because of his age and household circumstances.

The relationship(s) of the people who live together affects whether they must be included or excluded from the group. BEM 212 (April 2019), p. 1. First, MDHHS is to determine who must be included in the group. *Id.* If they are not mandatory group members, then MDHHS is to determine if the household members purchase and prepare food together or separately. *Id.* Parents and their children under 22 years of age who live together must be in the same group regardless of whether the child(ren) have their own spouse or child who lives with the group. *Id.*

As of Petitioner's application date, Petitioner was under 22 years of age and he reported a household that included his mother. As a person under 22 years of age who lived with his mother, Petitioner's FAP group must include his mother (and possibly others). Thus, Petitioner was not entitled to a determination of FAP benefits separate from his mother.

Petitioner testified that he only lived with his mother when not attending Western Michigan University during the fall and winter terms. Petitioner's testimony implied an argument that MDHHS should evaluate his FAP eligibility separately from his mother because he lived elsewhere for most of the year. MDHHS policy considers persons who are "temporarily absent" from a home as persons who are out of a home for less than 30 days. *Id.*, p. 3. It was not disputed that Petitioner lives with his mother for a period longer than 30 days. Thus, Petitioner's residency with his mother would not qualify as a temporarily absence from his primary residence. Further, Petitioner is considered a household member with his mother while he lives with her when away from college. As a child under 22 years of age, he must be in his mother's FAP group.

If Petitioner seeks FAP benefits independent of his mother, he would need to apply for FAP benefits while living at his primary residency. Petitioner should be aware that such an application may raise obstacles of student status (see BEM 245) and time-limited FAP (see BEM 620). Given the evidence, MDHHS properly did not process Petitioner's FAP eligibility based on a group that excluded Petitioner's mother.

The presented evidence suggested a legitimate dispute that could be raised by Petitioner's mother. Petitioner's application dated April 29, 2019, should have alerted MDHHS to a change in circumstances for Petitioner's mother. Petitioner's mother alleged that Petitioner was not added to her ongoing FAP case until August 2019. Petitioner's mother also alleged that MDHHS should have added Petitioner to her FAP case sooner than August 2019. The dispute raised by Petitioner's mother is appropriate for her to raise within a hearing request but administrative hearing jurisdiction for the dispute is not established by her son's hearing request.

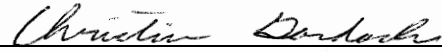
### **DECISION AND ORDER**

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that Petitioner withdrew his dispute concerning MA benefits. Concerning MA eligibility, Petitioner's hearing request is **DISMISSED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly processed Petitioner's application dated April 29, 2019,

requesting FAP benefits separately from his mother. The actions taken by MDHHS are **AFFIRMED**.

CG/jaf

  
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**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 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 Electronic Mail  
**DHHS**

Deborah Little  
MDHHS-Wayne-49-Hearings

BSC4  
M Holden  
D Sweeney  
D Smith  
EQAD

Via First Class Mail  
**Petitioner**

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