



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: October 16, 2020
MOAHR Docket No.: 20-005623
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 three-way hearing was held on October 14, 2020, from Detroit, Michigan. The Petitioner was represented by himself. The Department of Health and Human Services (Department) was represented by LaShona Callen, Assistance Payments Supervisor.

ISSUE

Did the Department properly close the Petitioner's Food Assistance (FAP)?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Petitioner was an ongoing recipient of FAP benefits.
2. The Petitioner filed a Shelter Verification when he moved his residence to [REDACTED], [REDACTED], [REDACTED], Michigan [REDACTED]. Exhibit A, pp. 6-7.
3. A Shelter Verification was completed by the owner of the facility [REDACTED], LLC where the Petitioner was residing. The Shelter Verification indicated that the Petitioner paid rent of \$184.00 a month and also \$140 a month for a meal program which was for 1 meal per day, 5 days per week. The meal program was mandatory. Exhibit A, pp. 6-7

4. The Department contacted the facility owner and confirmed the rent was \$184.00 and the mandatory meal plan cost was \$140.00 for one meal a day, for 5 days a week. During the contact by the Department, the owner confirmed that the facility was a “for profit” facility and was not IRS tax exempt. Exhibit A, pp. 6-7 and 8.
5. The Department determined that the facility where Petitioner was living was a Commercial Boarding House.
6. On August 27, 2020, the Department issued a Notice of Case Action closing the Petitioner’s FAP benefits effective October 1, 2020 finding the Petitioner was no longer eligible for FAP benefits due to institutional status as the facility where he lives was determined to be a Commercial Boarding House. Exhibit A, p. 10-14.

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, the Department closed the Petitioner’s FAP benefit case after receiving a Shelter Verification from Petitioner after he moved to a new location located at [REDACTED], [REDACTED], [REDACTED], MI [REDACTED]. The Department contacted the landlord Owner of the facility listed on the Shelter Verification and confirmed the following facts; the rent was \$184.00 and the mandatory meal plan cost was \$140.00 for one meal a day, for 5 days a week. During the contact by the Department, the Owner representative confirmed that the facility was a “for profit” facility and was not IRS tax exempt.

Department policy found at BEM 212 provides:

The following policies describe living situations which create ineligibility for FAP or which must meet specific requirements to allow eligibility.

Boarder

A boarder is a person residing in either of the following:

- In a commercial boarding house.
- With the FAP group and paying reasonable monthly compensation for meals.

A commercial boarding house is an establishment which provides room and board for compensation. It may or may **not** be licensed; it is **not** IRS tax exempt.

Persons residing in a commercial boarding house are **not** eligible for FAP. BEM 212, (October 2020) p. 7.

At the hearing, the Department testified that the contact made with the facility where Petitioner resides is a commercial boarding house and thus Petitioner was no longer eligible to receive FAP benefits. Based upon the evidence provided, it is determined that the Department demonstrated that it properly found that the Petitioner was no longer eligible for FAP benefits due to his institutional living situation and status as he was living in a Commercial Boarding House.

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 the Petitioners FAP benefit case.

DECISION AND ORDER

Accordingly, the Department's decision is

AFFIRMED.

LF/tm



Lynn M. Ferris
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-Oakland-3-Hearings
M. Holden
D. Sweeney
BSC4
MOAHR

Petitioner – Via First-Class Mail:

[REDACTED], MI [REDACTED]