



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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██████████, MI ██████████

Date Mailed: August 9, 2021
MOAHR Docket No.: 21-003012
Agency No.: ██████████
Petitioner: ██████████ ██████████

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, a telephone hearing was held on August 4, 2021. Petitioner was represented by himself. The Department was represented by Caroline Owczarzak.

ISSUE

Did the Department of Health and Human Services (Department) properly deny Petitioner's application for 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 ██████ ██████ 2021, the Department received Petitioner's application for Food Assistance Program (FAP) benefits. Exhibit A, pp 8-14.
2. Petitioner reported on his ██████ ██████ 2021, application for assistance that he is attending college classes. Exhibit A, p 11.
3. On June 3, 2021, the Department notified Petitioner that he was not eligible for Food Assistance Program (FAP) benefits. Exhibit A, p 21-23.
4. On June 8, 2021, the Department received Petitioner's request for a hearing protesting the denial of Food Assistance Program (FAP) benefits. Exhibit A, pp 4-6.

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) is funded under the federal Supplemental Nutrition Assistance Program (SNAP) established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 through 7 USC 2036a. It is implemented by the federal regulations contained in 7 CFR 273. The Department administers FAP pursuant to MCL 400.10 of the Social Welfare Act, MCL 400.1 *et seq*, and Mich Admin Code, R 400.3001 through 400.3011.

A person is in student status if age 18 through 49 and enrolled half-time or more in a vocational, trade, business, or technical school or college or university that offers degree programs regardless of whether a diploma is required. In order for a person in student status to be eligible, they must meet the criteria listed in the student status policy. Department of Human Services Bridges Eligibility Manual (BEM) 245 (April 1, 2021), pp 3-4.

Petitioner filed an application for FAP benefits and reported that he is attending college classes. On June 8, 2021, the Department notified Petitioner that he is not eligible for FAP benefits as a student in a post-secondary education program and does not fit any of the exemptions from the student status policy.

Petitioner did not dispute that he is not employed, but argues that he is unfit for employment, which is one of the exemptions listed in BEM 245.

Department policy allows a person to verify that they are physical or mentally unfit for employment by submitting the following documentation:

Physically or Mentally Unfit for Employment:

Award letter or other verification of eligibility for Retirement, Survivors, and Disability Insurance (RSDI) or Supplemental Security Income (SSI) on the basis of disability.

Award letter or other verification of eligibility for disability benefits issued by government or private sources.

Statement from an M.D. or D.O.

Statement from a psychologist.

BEM 245, p 13.


Petitioner claims that he is unfit for employment but failed to provide verification of his circumstances when he applied for FAP benefits. Since Petitioner failed to establish that he is unfit for employment as of June 8, 2021, the Department properly determined that he was not eligible 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 determined that Petitioner is not eligible for Food Assistance Program (FAP) benefits.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.

KS/nr



Kevin Scully
Administrative Law Judge
for Elizabeth Hertel, 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

Kim Cates
1399 W. Center Road
Essexville, MI 48732

Bay County DHHS- via electronic mail

BSC2- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

Petitioner

██████████ - via first class mail

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