



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: May 10, 2022  
MOAHR Docket No.: 22-001511  
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 May 4, 2022. Petitioner represented herself and ██████████ testified on her behalf. The Department was represented by Greg Walker.

**ISSUE**

Did the Department of Health and Human Services (Department) properly determine Petitioner's eligibility for the Food Assistance Program (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. On ██████████ ██████████ the Department received Petitioner's application for Food Assistance Program (FAP) benefits.
2. Petitioner reported six people living in her household on the ██████████ ██████████ application form.
3. Effective June 9, 2021, the Alpena County Circuit Court entered an order placing three children living in Petitioner's home with their mother half of the days each year and half in Petitioner's home with their father.
4. Three of the children living in Petitioner's home are part of an active Food Assistance Program (FAP) household that was receiving benefits before Petitioner was approved for benefits.
5. On January 28, 2022, the Department notified Petitioner that she was eligible for Food Assistance Program (FAP) benefits as a household of three people.

6. On March 22, 2022, the Department received Petitioner's request for a hearing.

### **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.

FAP group composition is established by determining who lives together, the relationship of the people who live together, whether the people living together purchase and prepare food together or separately, and whether the persons reside in an eligible living situation. Department of Human Services Bridges Eligibility Manual (BEM) 212 (January 1, 2022), p 1.

When a child spends time with multiple caretakers who do not live together, only one person can be the primary caretaker. The child is always in the FAP group of the primary caretaker. If a child spends virtually half of the days on average with each caretaker, the caretaker who is approved for benefits first is the primary caretaker. BEM 212, pp 3-4.

Petitioner applied for FAP benefits reporting that she lives in a household of six people. Three children living in her home are members of another active FAP benefit group, and the children spend virtually half of the time in that household that had already been receiving FAP benefits. Therefore, those three children must be placed in the other FAP benefit group and they are not eligible to receive benefits as part of Petitioner's FAP benefit group.

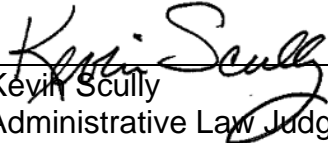
Petitioner argued that the benefits granted to this other household are being fraudulently used, but this is not relevant to the issue of whether the Department properly determined the size and composition of Petitioner's FAP benefit group.

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 Petitioner's eligibility for Food Assistance Program (FAP) benefits.

**DECISION AND ORDER**

Accordingly, the Department's decision is AFFIRMED.

KS/nr

  
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Kevin Scully  
Administrative Law Judge  
Michigan Office of Administrative Hearings and  
Rules (MOAHR)

**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**

Barbara Schram - 4  
711 West Chisholm St.  
Alpena, MI 49707

Alpena County DHHS- via electronic mail

BSC1- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

**Petitioner**

██████████ - via first class mail

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