



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: September 9, 2022
MOAHR Docket No.: 22-003461
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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 September 8, 2022, from Detroit, Michigan. Petitioner was represented by his father, and an adult group member, ██████████. The Department of Health and Human Services (Department) was not present at the hearing.

ISSUE

Did the Department properly deny Petitioner's Food Assistance Program (FAP) application?

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 ██████████ 2022, an application for benefits was submitted on behalf of Petitioner.
2. Petitioner resided with his father.
3. On July 21, 2022, the Department denied Petitioner's application for FAP benefits.
4. On ██████████, 2022, Petitioner submitted a request for 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) [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, Petitioner submitted an application for FAP benefits on [REDACTED], 2022. Although the Department did not participate in the hearing, the Department sent the Michigan Office of Administrative Hearings and Rules a hearing summary. Per the hearing summary, an interview was completed with Petitioner, at which Petitioner stated that he and his father purchase and prepare food together. As a result, the Department included Petitioner's father in his FAP group. The Department determined the group had excess income and denied the application. Petitioner's father submitted a hearing request disputing the Department's decision to include him in Petitioner's FAP group.

FAP budget calculations require the consideration of the group size. The Department will determine who must be included in the FAP group prior to evaluating the non-financial and financial eligibility of everyone in the group. BEM 212 (July 2019), p. 1. The 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, p. 6. 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. BEM 212, p. 1. Additionally, if a FAP group member is older than 18 and is not a full-time high school student, their income is countable. BEM 501 (July 2019), p. 1.

Petitioner's father testified that he believed his son was confused by the Department's questions at the interview. Petitioner's father conceded that he does purchase and prepare food, that he shares with his son. However, if Petitioner had his own food assistance, the food purchased with the benefits would solely be for Petitioner. Petitioner's father stated that when Petitioner had food assistance in the past, it was not shared amongst household members.

The Department was not present to dispute Petitioner's father's testimony. Petitioner's father gave credible testimony that if Petitioner had the resources to purchase his own food, the household would not purchase and prepare food together. Therefore, Petitioner should be in his own group. Thus, the Department did not act in accordance with policy when it processed Petitioner's FAP application. As it follows, the Department did not act in accordance with policy when it denied Petitioner's FAP application.

DECISION AND ORDER

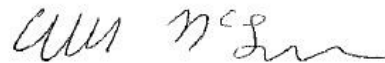
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it denied Petitioner's FAP application.

Accordingly, the Department's decision is **REVERSED**.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reinstatement and reprocess Petitioner's FAP application;
2. Remove Petitioner's father from his FAP group;
3. If Petitioner is eligible for FAP benefits, issue supplements he is entitled to receive; and
4. Notify Petitioner of its decision in writing.

EM/tm



Ellen McLemore
Administrative Law Judge

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
Denise McCoggle
Wayne-Greydale-DHHS
27260 Plymouth Rd
Redford, MI 48239

Interested Parties

M. Holden
D. Sweeney
BSC4
MOAHR

Via-First Class Mail :

Petitioner

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Authorized Hearing Rep.

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