



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: September 21, 2022
MOAHR Docket No.: 22-003499
Agency No.: ██████████
Petitioner: ██████████ ██████████

ADMINISTRATIVE LAW JUDGE: Landis Lain

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 20, 2022, from Lansing, Michigan. Petitioner ██████████ ██████████ self-represented at the hearing. The Department of Health and Human Services (Department) was represented by Andrea Edwards, Hearings Coordinator.

ISSUE

Did the Department properly determine the household group composition for 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. Petitioner was a FAP benefit recipient.
2. Petitioner filed an Administrative Hearing on August 17, 2022, due to the change in the Food Assistance Program (FAP) group composition.
3. Petitioner does not agree that the child's father (AS) should be counted in the FAP group even after the FAP group composition policy was reviewed with her.
4. Petitioner contacted the local office on July 14, 2022 to report the birth of her newborn child.
5. On July 18, 2022, Petitioner was contacted by the local office to verify the absent parent information. Petitioner was not available, and a voicemail was left.

6. On August 17, 2022, the [REDACTED] 2021, FAP application was reviewed, and AS was added to the FAP case.
7. The Department determined that Petitioner, her child and the child's father reside in the same household.
8. A verification checklist was sent to the client on August 17, 2022 due August 29, 2022 for the proof of income for AS.
9. As of the hearing date, Petitioner has not provided verification information to the Department.
10. On August 22, 2022, the Michigan Office of Administrative Hearings and Rules received a Hearing Summary and attached documents from the Department.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance has been denied. MAC R 400.903(1). Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

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.

Petitioner conceded on the record that she, her child, and AS reside at the same household. Petitioner conceded that she did not turn in the information as was requested on the verification checklist. Petitioner testified that she and AS are not married and AS is not responsible for Petitioner because they are not married. AS does take care of his child.

Pertinent Department policy dictates:

Bridges will help determine who must be included in the Food Assistance Program (FAP) group prior to evaluating the non-financial and financial eligibility of everyone in the group. Food Assistance Program group composition is established by determining all of the following:

1. Who lives together.
2. The relationship(s) of the people who live together.
3. Whether the people living together purchase and prepare food together or separately.
4. Whether the person(s) resides in an eligible living situation; see LIVING SITUATIONS in this item.

The relationship(s) of the people who live together affects whether they must be included or excluded from the group. First, determine if they must be included in the group. If they are not mandatory group members, then determine if they purchase and prepare food together or separately.

Children include natural, step and adopted children. **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, page 1

Living with means sharing a home where family members usually sleep and share any common living quarters such as a kitchen, bathroom, bedroom or living room. BEM 212, page 3

In this case, Department policy specifically dictates that parents and their children who reside together must be in the same FAP group. In this case both Petitioner and AS are the parents of Petitioner's child. Thus, they are required by policy to remain in the same FAP group.

Petitioner's allegation that AS does not take care of her and that she is responsible for herself is a compelling equitable argument to be excused for the Department's program policy requirements. This Administrative Law Judge has no equity powers. A review of Petitioner's case reveals that the Department properly determined the household group composition to include Petitioner, the child, and AS. Household group composition determination is set by FAP policy and cannot be changed by the Department or this Administrative Law Judge.

Therefore, this Administrative Law Judge finds the Department has established by the necessary competent, material, and substantial evidence on the record that it acted in accordance with department policy.

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 and AS were required to remain in the same FAP group because AS and Petitioner are both parents of the child they reside within the same household. The Department's action must be upheld.

DECISION AND ORDER

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

LL/mp



Landis Laid
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
MDHHS-StClair-Harings
D. Sweeney
M. Holden
MOAHR
BSC3

Via-First Class Mail :

Petitioner
[REDACTED] [REDACTED]
[REDACTED] [REDACTED] [REDACTED]
[REDACTED] MI [REDACTED]