



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR



Date Mailed:
MOAHR Docket No.: 22-004576
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

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 November 10, 2022. The Petitioner represented herself. The Department of Health and Human Services (Department) was represented by Julie McLaughlin, Hearing Facilitator (HF).

ISSUE

Did the Department properly determine Food Assistance Program (FAP) eligibility that the Petitioner had to be on her mother's case because of her daughter in the home?

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 has been a recipient of FAP benefits with her own case even though she lived in same house with her mother and daughter.
2. On [REDACTED] 2022, the Petitioner submitted her September 2022 Redetermination Application, DHS 1010.
3. On September 27, 2022, the Department Caseworker sent out a Notice of Case Action, DHS 1605, to the Petitioner that informed her that effective November 1, 2022, her FAP case was closing because the Petitioner, her mother, and daughter must be in the same group even though the Petitioner's mother has guardianship of the Petitioner's daughter and all three of them are mandatory FAP group members. Department Exhibit 1, pgs. 5-12.

4. On October 4, 2022, the Department received a hearing request from the Petitioner, contesting the Department's negative action.

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 Petitioner has been a recipient of FAP benefits with her own case even though she lived in same house with her mother and daughter. On [REDACTED] 2022, the Petitioner submitted her September 2022 Redetermination Application, DHS 1010. On September 27, 2022, the Department Caseworker sent out a Notice of Case Action, DHS 1605, to the Petitioner that informed her that effective November 1, 2022, her FAP case was closing because the Petitioner, her mother, and daughter must be in the same group even though the Petitioner's mother has guardianship of the Petitioner's daughter and all three of them are mandatory FAP group members. Department Exhibit 1, pgs. 5-12. On October 4, 2022, the Department received a hearing request from the Petitioner, contesting the Department's negative action. BAM 130. BEM 212, 220, and 222.

The HF stated that the Department was unaware that the Petitioner, her daughter, and her mother were in the same household. The Petitioner's mother has guardianship of the Petitioner's daughter, but parental rights have not been terminated. As a result, all three of the family members are required by Department FAP policy to be on the same FAP case.

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 acted in accordance with Department policy when it determined that the Petitioner should be on the same FAP case with her daughter and mother since they were living in the same household based on parental rights not being terminated with only a guardianship determined by Department policy.

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

CF/cc

Handwritten signature of Carmen G. Fahie in cursive script, written over a horizontal line.

Carmen G. Fahie
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 :

Interested Parties

MDHHS-Muskegon-Hearing
BSC3-HearingDecisions
D. Sweeney
M. Holden
MOAHR

Via-First Class Mail :

Petitioner

[REDACTED]
MI