



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

[REDACTED] MI [REDACTED]

Date Mailed: December 9, 2022  
MOAHR Docket No.: 22-005053  
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 30, 2022. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Robin Patterson, Eligibility Specialist and Ashley Augsbergur, Eligibility Specialist. Department Exhibit 1, pgs. 1-35, was introduced and made a part of the record.

### **ISSUE**

Did the Department properly determine the Petitioner's eligibility 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. The Petitioner was a recipient of FAP benefits.
2. On September 7, 2022, the Department received a Redetermination Application, DHS 1010, from the Petitioner, and Interview Guide completed on October 3, 2022, with the Department Caseworker. The submitted information implied that her son did not have his own residence and stays multiple places during the month, including her home where he stays sometimes about 4 to 8 night a month, during which time they do not share food and he does not contribute to the household.
3. On October 3, 2022, the Department Caseworker completed the interview and added the Petitioner's son as a member add.

4. On October 3, 2022, a New Hire Client Notice, DHS-4635, was sent to the Petitioner, that was due on October 13, 2022, for the Petitioner's son to provide verification of employment.
5. On October 14, 2022, the Department received a hearing request from the Petitioner, contesting the Department's negative action.
6. On October 17, 2022, the Department sent the Petitioner a Notice of Case Action, DHS-1605, that the Petitioner's FAP case was closed effective November 1, 2022, due to her failure to provide the required verification to determine FAP eligibility.

### **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 was a recipient of FAP benefits. On September 7, 2022, the Department received a Redetermination Application, DHS 1010, from the Petitioner, and Interview Guide completed on October 3, 2022, with the Department Caseworker. The submitted information implied that her son did not have his own residence and stays multiple places during the month, including her home where he stays sometimes about 4 to 8 night a month, during which time they do not share food and he does not contribute to the household. On October 3, 2022, the Department Caseworker completed the interview and added the Petitioner's son as a member add.

On October 3, 2022, a New Hire Client Notice, DHS-4635, was sent to the Petitioner, that was due on October 13, 2022, for the Petitioner's son to provide verification of employment. On October 14, 2022, the Department received a hearing request from the Petitioner, contesting the Department's negative action. On October 17, 2022, the Department sent the Petitioner a Notice of Case Action, DHS-1605, that the Petitioner's FAP case was closed effective November 1, 2022, due to her failure to provide the required verification to determine FAP eligibility. BEM 212.

Before the hearing, the Department asked for a policy clarification from the Central Office Policy Unit. The policy clarification was a child who was under 22 years of age that stays at the parent's home and is gone less than 30 days, are a mandatory group

member for FAP eligibility based on Department policy and procedures found in BEM 212.

## **BEM 212, Food Assistance Program Group Composition**

### **Parents and Children**

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.

**Note:** For ongoing and intake applications where the child(ren) are not yet 22, they are potentially eligible for their own case, the month after turning 22.

### **Temporary Absence**

A person who is temporarily absent from the group is considered living with the group.

A person's absence is temporary if all of the following are true:

- The person's location is known.
- The person lived with the group before an absence (newborns are considered to have lived with the group).
- There is a definite plan for return.
- The absence has lasted or is expected to last 30 days or less.

**Exception:** The absence may last longer than 30 days if the absent person is in a hospital and there is a plan for him to return to the home.

This Administrative Law Judge finds that the Department properly determined that the Petitioner's son was a mandatory household group member for FAP eligibility because he was under 22 years of age, and he spent the night occasionally and was not absent for 30 days as required by Department policy. Based on the Petitioner's testimony, application, and interview, her son spends the night 4 to 8 times a month or occasionally where he is not absent from the home for 30 days, which requires him to be counted as a mandatory household group member for FAP eligibility.

**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's son should be counted as a mandatory household group member for FAP eligibility.

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

CF/tlf



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**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-Presqueisle-Hearings  
BSC1-HearingDecisions  
D. Sweeney  
M. Holden  
MOAHR

**Via-First Class Mail :**

**Petitioner**

[REDACTED]  
MI [REDACTED]