



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: December 2, 2022  
MOAHR Docket No.: 22-005076  
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 November 30, 2022, from Lansing, Michigan. Petitioner represented herself. The Department was represented by Becky Fraser.

**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. Exhibit A, p 5.
2. Petitioner reported that she was living in a household of seven people, but the Department determined that five of the people listed on Petitioner's application form were active Food Assistance Program (FAP) recipients as part of another household. Exhibit A, pp 6-8.
3. On August 22, 2022, the Department notified Petitioner that she was eligible for Food Assistance Program (FAP) benefits as a household of two effective September 1, 2022. Exhibit A, p 34.
4. The Department initiated a Front-End Eligibility investigation to resolve the discrepancy as to where Petitioner's children were sleeping each night. Exhibit A, p 24.

5. On September 15, 2022, the Department received a Verification of Student Information (DHS-3380) showing that Petitioner's children are enrolled in school full time and that they reside with their father. Exhibit A, pp 27-30.
6. On [REDACTED] [REDACTED] [REDACTED] the Department received Petitioner's request for a hearing protesting the Department's determination of her eligibility for the Food Assistance Program (FAP). Exhibit A, p 4.

### **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 (July 1, 2019), p 1.

When a child spends time with multiple caretakers who do not live together such as joint physical custody, parent/grandparent, etc., determine a primary caretaker. Only one person can be the primary caretaker and the other caretaker(s) is considered the absent caretaker(s). The child is always in the FAP group of the primary caretaker. If the child's parent(s) is living in the home, he/she must be included in the FAP group. BEM 212, p 4.

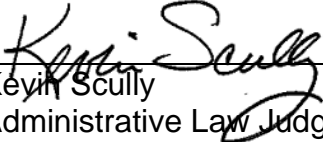
Petitioner applied for FAP benefits on [REDACTED] [REDACTED] [REDACTED] reporting that she is part of a household of seven people including her children. Five of the people listed on Petitioner's [REDACTED] [REDACTED] [REDACTED] application form were active members of another FAP household at that time. The Department sought out verification of where the children were living as required by BEM 212, when the primary caretaker status is disputed by another parent. The hearing record supports a finding that the children were living with their father and receive FAP benefits as part of his household. Petitioner failed to offer any objective evidence to establish that the children are sleeping at her home more than 50% of the nights in each month. Therefore, Petitioner failed to establish that she is part of a household of seven people. On August 22, 2022, the Department notified Petitioner that she was eligible for FAP benefits as household of two.

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) based on the best information available as of September 1, 2022.

**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

**Via-Electronic Mail :**

**DHHS**  
Kimberly Kornoelje  
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121 Franklin SE  
Grand Rapids, MI 49507  
**MDHHS-Kent-**  
**Hearings@michigan.gov**

**Interested Parties**  
Kent County DHHS  
BSC3  
M. Holden  
D. Sweeney  
MOAHR

**Via-First Class Mail :**

**Petitioner**  
[REDACTED]  
[REDACTED]  
[REDACTED], MI [REDACTED]