



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: January 10, 2023
MOAHR Docket No.: 22-005668
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 January 4, 2023, from Lansing, Michigan. Petitioner represented herself. The Department was represented by Melissa Stanley.

ISSUE

Did the Department of Health and Human Services (Department) properly closed Petitioner's Food Assistance Program (FAP) benefits?

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 as a household of three. Exhibit A, pp 10-17.
2. During an eligibility interview, Petitioner reported that she lives with her husband and two children, but that one child is in the home 6 days per month. Exhibit A, p 18.
3. On August 31, 2022, the Department received verification of Petitioner's employment. Exhibit A, pp 33-36.
4. On September 12, 2022, the Department notified Petitioner that she was eligible for Food Assistance Program (FAP) benefits as a household of three. Exhibit A, p 25.
5. The Department received verification that Petitioner's husband is employed. Exhibit A, pp 40-45.

6. On November 18, 2022, the Department notified Petitioner that she was not eligible for Food Assistance Program (FAP) benefits effective December 1, 2022. Exhibit A, p 46.
7. Petitioner's household received a combined gross monthly income of \$ [REDACTED]
8. On November 29, 2022, the Department received Petitioner's request for a hearing protesting the closure of her Food Assistance Program (FAP) benefits. Exhibit A, pp 3-6.

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.

Petitioner applied for FAP benefits and reported that she lives with her husband and two children. Petitioner disclosed during a routine eligibility interview that one of her children sleeps in her home for 6 days each month. The Department determined that Petitioner was eligible for FAP benefits as household of three.

Where a child resides in a household part-time, as one of Petitioner's children does in this case, that child will be considered to be part of the primary caretaker's household. The primary caretaker's household is where the child sleeps more than half of the days in each month on average. See BEM 212.

In this case, Petitioner did not dispute that one of her children sleeps at her household less than half of the days of each month and the Department properly determined the size of Petitioner's benefit household.

Petitioner provided the Department with verification of her and her husband's employment. The Department determined that Petitioner receive a total combined income the gross monthly amount of \$ [REDACTED] which was not disputed during the hearing.

The gross monthly income limit is \$3,007 for a household of three, and \$3,518 for a household of four people. Department of Health and Human Services Reference Table Manual (RFT) 250 (October 1, 2022). Households exceeding the gross monthly income limit are not eligible for any FAP benefits regardless of the household's expenses.

Petitioner argues that she is responsible for financially supporting her child despite the fact that the child sleeps at her residence for only a portion of each month, and that she should be entitled to assistance with supporting that child. It should be noted that inclusion in a FAP benefits household is not determined in the same manner that the IRS determines dependency, but by Department FAP policy and federal regulations.

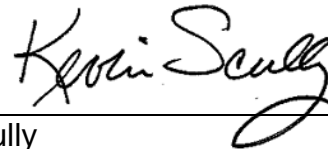
However, based on the income reported by Petitioner, her household is not eligible for any FAP benefits as of December 1, 2022, regardless of whether both children are included in the benefit household.

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 closed Petitioner's Food Assistance Program (FAP) benefits effective December 1, 2022.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.

KS/nr



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
Elisa Daly
411 East Genesee
Saginaw, MI 48607
**MDHHS-Saginaw-
Hearings@michigan.gov**

Interested Parties
Saginaw County DHHS
BSC2
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MOAHR

Via-First Class Mail :

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