



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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Date Mailed: February 6, 2023  
MOAHR Docket No.: 22-006193  
Agency No.: ██████████  
Petitioner: ██████████

**ADMINISTRATIVE LAW JUDGE: Christian Gardocki**

**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 hearing was held via telephone conference line on February 1, 2023. Petitioner did not participate. Petitioner's mother, ██████████, testified on behalf of Petitioner and participated as Petitioner's authorized hearing representative (AHR). The Michigan Department of Health and Human Services (MDHHS) was represented by Karen Smalls, supervisor, and Rechela Hall, specialist.

**ISSUE**

The issue is whether MDHHS properly denied Petitioner's application for 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 ██████████ 2022, Petitioner applied for FAP benefits and reported a household size of one person.
2. On December 15, 2022, during an application interview, Petitioner reported temporarily residing with her mother and two other persons while on break from college. Petitioner additionally reported being a full-time college student at a North Carolina university and an expectation to return to college on January 8, 2023.
3. On December 15, 2022, MDHHS denied Petitioner's application for FAP benefits due to non-Michigan residency.

4. On December 21, 2022, Petitioner requested a hearing to dispute the denial of FAP benefits.

### **CONCLUSIONS OF LAW**

The 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. MDHHS administers the FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-119b, and Mich Admin Code, R 400.3001-.3011. FAP policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute a denial of FAP benefits. Exhibit A, pp. 3-4. A Notice of Case Action dated December 15, 2022, stated that MDHHS denied Petitioner's application due to non-Michigan residency. Exhibit A, pp. 6-7.

To be eligible for FAP benefits, a person must be a Michigan resident. BEM 255 (July 2020) p. 1. A person is considered a resident while living in Michigan for any purpose other than a vacation, even if there is no intent to remain in the state permanently or indefinitely. *Id.* Eligible persons may include students living at home during a school break. *Id.*

Petitioner applied for FAP benefits on [REDACTED] 2022. Exhibit A, pp. 9-15. During an interview dated December 15, 2022, Petitioner reported being a full-time college student at a North Carolina university. Exhibit A, pp. 16-22. Petitioner additionally reported being on break from college until January 8, 2023. MDHHS denied Petitioner's application the same day of the FAP interview. Presumably, MDHHS considered Petitioner's reporting, by itself, to be sufficient proof of non-Michigan residency. However, MDHHS policy clearly states that students living at home during school breaks may be eligible for FAP benefits and a person may be a Michigan resident even if there is no intent to remain in the state permanently. Thus, MDHHS erred by denying Petitioner's application from Petitioner's statements alone.

The evidence failed to establish that MDHHS properly denied Petitioner's application based on non-Michigan residency. As a remedy, Petitioner is entitled to a reprocessing of the application dated November 28, 2022.<sup>1</sup>

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<sup>1</sup> Petitioner should be aware that reprocessing does not equate to eligibility. Issues such as whether Petitioner's FAP group includes other household members (see BAM 211) and/or eligibility as a full-time college student (see BEM 245) may yet render to be ineligible for FAP benefits.

**DECISION AND ORDER**

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly denied Petitioner's application for FAP benefits. MDHHS is ordered to commence the following actions within 10 days:

- (1) Reinstate Petitioner's application dated November 28, 2022;
- (2) Reprocess Petitioner's application subject to the finding that MDHHS failed to establish Petitioner's non-Michigan residency; and
- (3) Issue notice and benefit supplements, if any, in accordance with policy.

The actions taken by MDHHS are **REVERSED**.

CG/mp



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**Christian Gardocki**  
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-Oakland-6303-Hearings  
D. Sweeney  
M. Holden  
MOAHR  
BSC4

**Via-First Class Mail :**

**Petitioner**

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

**Authorized Hearing Rep.**

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