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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: March 30, 2023  
MOAHR Docket No.: 23-001080  
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 March 27, 2023. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Ryan Kennedy, hearings facilitator.

**ISSUE**

The issue is whether MDHHS properly determined Petitioner’s Food Assistance Program (FAP) eligibility.

**FINDINGS OF FACT**

The administrative law judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. As of December 2022, Petitioner was an ongoing recipient of FAP benefits as the only member of a benefit group.
2. On January 5, 2023, Petitioner submitted to MDHHS a Change Report stating that he was married to ██████████ (hereinafter, “LTP”) since June 20, 2020.
3. On January 8, 2023, Petitioner submitted to MDHHS a Change Report stating that LTP was his “Living Partner”.
4. On January 20, 2023, during an interview Petitioner reported he bought and prepared food with LTP.

5. On January 27, 2023, Petitioner reported to a MDHHS investigator that he sometimes buys and prepares food with LTP.
6. On January 27, 2023, Petitioner submitted to MDHHS a Change Report stating that LTP was not his wife despite his previous reporting.
7. On February 15, 2023, MDHHS determined Petitioner was eligible to receive \$158 per month based on a benefit group including LTP and LTP's employment.
8. On February 23, 2023, Petitioner requested a hearing to dispute the inclusion of LTP in Petitioner's benefit group.
9. On March 27, 2023, during an administrative hearing, Petitioner reported that he prepares food for LTP three times per month.

### **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 FAP eligibility.<sup>1</sup> Exhibit A, pp. 5-6. A Notice of Case Action dated February 15, 2023, stated that Petitioner's FAP eligibility would decrease to \$158 per month beginning March 2023 due to a change in employment income and an excess shelter deduction. Exhibit A, pp. 25-29. Both changes stemmed from the inclusion of LTP and LTP's employment income in Petitioner's FAP benefit group.<sup>2</sup>

FAP benefit amounts are determined by a client's net income. BEM 556 outlines the factors and calculations required to determine a client's net income. FAP net income factors include group size, countable monthly income, and relevant monthly expenses. MDHHS presented a March 2023 budget listing all relevant budget factors and calculations.<sup>3</sup> Exhibit A, pp. 22-24. The notice dated February 15, 2023, also included a summary of all budget factors. Exhibit A, p. 26. During the hearing, Petitioner testified that he disputed only the inclusion of LTP as a benefit group member.

Before January 2023, MDHHS issued FAP benefits to Petitioner based on a benefit group that included only Petitioner. MDHHS updated Petitioner's case after Petitioner submitted a Change Report on January 5, 2023, stating that he and LTP were married

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<sup>1</sup> Petitioner more than disputed a reduction in FAP eligibility as he stated, "I demand full amount."

<sup>2</sup> LTP's employment income history was presented but not disputed. Exhibit A, pp. 18-21.

<sup>3</sup> MDHHS also presented a FAP budget for August and September 2022 to demonstrate the differences to the disputed budget month of October 2022. Exhibit A, pp. 17-18.

and had been since June 20, 2020. Exhibit A, pp. 8-9. Spouses who are legally married and live together must be in the same group BEM 212 (January 2022) p. 1. Petitioner's reporting justified the inclusion of LTP in Petitioner's benefit group.

After Petitioner reported marriage to LTP, he made great efforts to recant. Petitioner reported to MDHHS on January 8, 2023, that LTP was a "Living Partner"; presumably, the reporting was intended to report non-marriage to LTP. Exhibit A, pp. 10-11. Petitioner also submitted a Change Report to MDHHS on January 27, 2023, stating he "made a mistake" in reporting that he was married to LTP.<sup>4</sup> Exhibit A, pp. 10-11.

MDHHS conducted a Front-End Eligibility investigation following Petitioner's contradictory and presented its investigation report. Exhibit A, pp. 14-16. MDHHS's investigator acknowledged that Petitioner's marriage status could not be verified through the country website of Petitioner's residence. Despite the lack of confirmation of Petitioner's marriage to LTP, the evidence established that MDHHS properly included LTP in Petitioner's benefit group.

FAP group composition is established by determining all the following: who lives together, the relationship(s) of the people who live together, whether the people living together purchase and prepare food together or separately, and whether the person(s) resides in an eligible living situation. BEM 212 (January 2022) p. 1. Persons usually share food in common if any of the following conditions exist: each contribute to the purchase of food, they share the preparation of food, regardless of who paid for it, or they eat from the same food supply, regardless of who paid for it. *Id.*, p. 6. In general, persons who live together and purchase and prepare food together are members of the FAP group. *Id.*

In referring Petitioner's case for investigation, Petitioner's specialist documented that Petitioner reported on January 20, 2023, that he and LTP bought and prepared food together.<sup>5</sup> Exhibit A, p. 14. Also, MDHHS's investigator documented speaking with Petitioner and LTP on January 27, 2023, and both reported that they sometimes buy and prepare food together. Petitioner testified that LTP owns the home in which he resides and that he has no income to assist with bills.<sup>6</sup> Petitioner further testified he prepares meals for LTP approximately three times per month to "ease tension" with LTP. Petitioner's and LTP's statements established that they eat from the same food supply.

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<sup>4</sup> Petitioner excused his admittedly false reporting of marriage to LTP by a learning disability. If Petitioner's reporting of marriage was a mistake, it was not accidental. Petitioner's reporting of marriage was accompanied by language that he had been married to LTP for "a couple years now" and that he "feared" receiving less FAP benefits by an accurate reporting. Exhibit A, p. 8.

<sup>5</sup> MDHHS also documented that Petitioner then denied buying and preparing food with LTP.

<sup>6</sup> Aside from reporting contradictory statements of marriage. Petitioner also failed to repeatedly report living with LTP on applications dated [REDACTED] 2022, [REDACTED] 2022, and [REDACTED] 2022. Also, Petitioner did not dispute failing to report LTP as a household member during an interview with MDHHS on September 7, 2022.

The evidence established that Petitioner and LTP purchase and prepare food together. Thus, MDHHS established that it properly included LTP in the same FAP benefit group beginning March 2023.

**DECISION AND ORDER**

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly included LTP in Petitioner's FAP benefit group beginning March 2023. The actions taken by MDHHS are **AFFIRMED**.

CG/mp



**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-Macomb-12-Hearings  
D. Sweeney  
M. Holden  
MOAHR  
BSC4

**Via-First Class Mail :**

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