



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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[REDACTED]
[REDACTED] MI [REDACTED]

Date Mailed: July 13, 2023
MOAHR Docket No.: 23-003329
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Linda Jordan

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 on July 12, 2023 via teleconference. Petitioner appeared and represented herself. Dania Ajami, Lead Worker, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department).

ISSUE

Did MDHHS properly terminate 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. Petitioner was an ongoing recipient of FAP benefits.
2. On May 22, 2023, Petitioner submitted a FAP Renewal to MDHHS (Exhibit A, p. 6). Petitioner indicated that she had a pending disability application and signed the Renewal electronically (Exhibit A, p. 8). Shortly thereafter, MDHHS conducted an interview with Petitioner and Petitioner reported to her worker that she was a part-time student at Oakland Community College (OCC) (Exhibit A, p. 1).
3. On June 5, 2023, MDHHS issued a Notice of Case Action indicating that Petitioner's FAP case was closed, effective July 1, 2023 ongoing, because it determined that Petitioner was not an eligible student (Exhibit A, pp. 9-10).
4. On June 5, 2023, Petitioner requested a hearing to dispute the closure of her FAP case (Exhibit A, pp. 3-4).

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) [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 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, MDHHS terminated Petitioner's FAP benefits because it determined that she was an ineligible student. For the purposes of FAP, beneficiaries are in student status if they are age 18 through 49 and enrolled half-time or more in a vocational, trade, business or technical school that normally requires a high school diploma or an equivalency certification, or a regular curriculum at a college or university that offers degree programs regardless of whether a diploma is required. BEM 245 (April 2021), pp. 3-4. Half-time attendance is not defined in policy. Policy states that schools determine the level of enrollment, such as full-time, half-time, or part-time. *Id.*, p. 7. To be considered a full-time student at OCC, a student must be enrolled in 12 or more credit hours in a given semester, and part-time status refers to students enrolled in at least .5 credit hours but less than 12 credit hours in a semester.¹

MDHHS testified that it determined that Petitioner was in student status based on the interview that it conducted with Petitioner in which she reported that she was enrolled part-time at OCC and that she was taking classes online. At the hearing, Petitioner testified that she was technically a student at OCC but was not currently taking any classes. She stated that she was enrolled in one, three-credit class during OCC's winter 2023 semester, which ended in May 2023. MDHHS did not present any evidence to the contrary. Petitioner further testified that she called MDHHS after the interview was conducted to clarify her school attendance situation. She spoke with a representative from MDHHS who stated that she would inform her caseworker. MDHHS had a record of the call but not of what was said on the call.

Based on the evidence presented, MDHHS improperly determined that Petitioner was in student status. It's unclear if OCC has a specific definition for what qualifies as half-time enrollment. However, considering that full-time enrollment is defined as a student enrolled in 12 or more credit hours per semester, a reasonable interpretation of "half-time" enrollment would be a student enrolled in six or more credit hours per semester. The record shows that Petitioner was not in student status during the Winter 2023

¹ Oakland Community College, *Grading Policy* <<https://www.oaklandcc.edu/academics/grading-policy/course-regulations>> (accessed July 12, 2023).

semester, which ended in May, because she was only taking one, three-credit class, and therefore was not enrolled half-time. Additionally, Petitioner was not in student status when MDHHS issued the June 5, 2023 Notice of Case Action, which terminated her benefits July 1, 2023 ongoing, because she was not taking any classes at that time.

No evidence was presented to show that MDHHS attempted to verify Petitioner's enrollment status prior to closing her FAP case, contrary to policy, which provides that MDHHS must obtain verification when an eligibility factor is unclear, inconsistent, incomplete, or contradictory. BAM 130 (January 2023), p. 1. In this case, MDHHS did not have enough information to determine whether Petitioner was in student status for the purposes of FAP eligibility and improperly determined that Petitioner was an ineligible student without verifying her enrollment information.

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 MDHHS did not act in accordance with Department policy when it closed Petitioner's FAP case.

DECISION AND ORDER

Accordingly, MDHHS' decision is **REVERSED**.

MDHHS IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reinstate Petitioner's FAP case, effective July 1, 2023 ongoing;
2. Determine Petitioner's eligibility for FAP, from July 1, 2023 ongoing, subject to the finding that Petitioner was not in student status;
3. Issue Petitioner any supplemental FAP benefits that she was eligible to receive but did not, from July 1, 2023 ongoing; and
4. Notify Petitioner of its decision in writing.



LJ/tm

Linda Jordan
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
Caryn Jackson
Wayne-Hamtramck-DHHS
12140 Joseph Campau
Hamtramck, MI 48212
**MDHHS-Wayne-55-
Hearings@michigan.gov**

Interested Parties
M. Holden
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BSC4

Via-First Class Mail :

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