



STATE OF MICHIGAN

GRETCHEN WHITMER  
GOVERNOR

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES  
SUZANNE SONNEBORN  
EXECUTIVE DIRECTOR

MARLON I. BROWN, DPA  
ACTING DIRECTOR

[REDACTED]  
MI [REDACTED]

Date Mailed: November 8, 2023  
MOAHR Docket No.: 23-006639  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Aaron McClintic**

**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 telephone hearing was held on November 1, 2023, from Lansing, Michigan. The Petitioner was represented by herself. [REDACTED] and [REDACTED] also appeared and testified for the Petitioner. The Department of Health and Human Services (Department) was represented by Hearing Facilitator Amber Gibson. Department Exhibit 1, pp. 1-57 was received and admitted.

**ISSUE**

Did the Department properly add [REDACTED] to the Food Assistance Program (FAP) group because he was residing with Petitioner?

**FINDINGS OF FACT**

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. At hearing, Petitioner testified that she was no longer pursuing SER benefit.
2. On August 31, 2023, Notice of Case Action was sent to Petitioner informing her that her FAP benefit was reduced to \$192 after [REDACTED] was added to FAP group.
3. On September 26, 2023, Petitioner requested hearing disputing the reduction of FAP benefit.

4. On August 21, 2023, a FEE investigation was completed and the FEE investigator determined that [REDACTED] was residing in Petitioner's home at [REDACTED]

### **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. The Department (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-119b, and Mich Admin Code, R 400.3001-.3011.

### **LIVING WITH**

Living with means sharing a home where family members usually sleep and share any common living quarters such as a kitchen, bathroom, bedroom or living room. Persons who share only an access area such as an entrance or hallway or non-living area such as a laundry room are not considered living together. BEM 212 (January 2022)

In this case, a FEE referral was made alleging that [REDACTED] was residing in Petitioner's home. Justin Motley the FEE investigator visited Petitioner's home at [REDACTED] and [REDACTED] answered the door with no shirt or socks. [REDACTED] told the FEE investigator that he did not reside in the home and that he resided at his mother's home at [REDACTED]. The FEE investigator went to [REDACTED] and spoke to Petitioner's mother [REDACTED] who told him that [REDACTED] only uses her address as a mailing address. [REDACTED] testified at hearing that [REDACTED] does reside with her at the [REDACTED] residence and denied that she told the FEE investigator that he did not reside with her. [REDACTED] testified at hearing that he does not reside at the [REDACTED] home and he does reside at the [REDACTED] address with his mother. [REDACTED] testified that he was at the [REDACTED] home to care for his grandchildren but he only occasionally spends the night at that home. Petitioner testified that [REDACTED] does not reside with her and that she asked him to leave several months prior because he was not contributing to the household.

Policy dictates that living with means sharing a home where family members usually sleep and share common living quarters. BEM 212 The Department's position is that because [REDACTED] previously resided in Petitioner's home and he was located at Petitioner's home when the FEE investigator went to the home it is reasonable to conclude that he resides in the home. Also, when the investigator went to the home

██████████ told him he was residing in, the person who answered the door told him that ██████████ only receives mail there. The testimony of the FEE investigator Justin Motley is found to be credible. It was reasonable for the FEE investigator to conclude that ██████████ was residing at ██████████. Therefore, the Department's action to add ██████████ to the FAP group and reduce Petitioner's FAP benefit was proper and correct and consistent with Department policy. BEM 212


Petitioner and her witnesses' testimony with regard to where ██████████ resides is found to not be credible. It is an unlikely coincidence that ██████████ happened to be at the home when the FEE investigator came to home but he does not reside there. Also, ██████████ answering the door with no shirt and socks suggests he resides there.

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 reduced Petitioner's FAP benefit when ██████████ was added to the FAP group.

**DECISION AND ORDER**

Accordingly, the Department's decision is **AFFIRMED**.

AM/ml

  
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**Aaron McClintic**  
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**  
Amber Gibson  
Ingham County DHHS  
5303 South Cedar  
Lansing, MI 48911  
**MDHHS-Ingham-Hearings@michigan.gov**

**Interested Parties**  
BSC2  
M Holden  
B Cabanaw  
N Denson-Sogbaka  
MOAHR

**Via First Class Mail:**

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