



GRETCHEN WHITMER
GOVERNOR

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

MARLON I. BROWN, DPA
ACTING DIRECTOR

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

Date Mailed: December 15, 2023
MOAHR Docket No.: 23-007680
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 December 5, 2023, via teleconference. Petitioner appeared and represented herself. [REDACTED] and [REDACTED] appeared as witnesses for Petitioner. Avery Smith, Assistance Payments Manager, 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 September 14, 2023, MDHHS sent Petitioner a Notice of Case Action indicating that FAP benefits would be terminated, effective October 1, 2023, ongoing because the individual was not eligible due to institutional status (Exhibit An pp. 26-27).
3. On September 21, 2023, Petitioner submitted a Mid-Certification Contact Notice for FAP to MDHHS (Exhibit A, p. 6).

4. On October 30, 2023, Petitioner requested a hearing regarding the termination of her FAP benefits (Exhibit A, pp. 3-5).

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 determined that Petitioner and her husband were not eligible for FAP benefits because they were residing in an assisted living facility that provided their meals. Petitioner dispute MDHHS' determination.

Residents of institutions can qualify for certain program benefits in limited circumstances. BEM 265 (April 2018), p. 1. An institution is defined as an establishment furnishing food, shelter and some treatment or services to more than three people unrelated to the proprietor. *Id.* A person in a facility which provides its residents a majority of their meals can qualify for FAP if the facility is authorized by the Food and Nutrition Service (FNS) to accept FAP or is an eligible group living facility as defined in BEM 615. *Id.* Types of eligible group living facilities for FAP include Adult Foster Care (AFC) homes, CMH/MDHHS Supported Community Living Facilities, Substance Abuse and Treatment Centers (SATC), domestic violence shelters, federally subsidized housing for the elderly, and temporary housing for the homeless. BEM 615 (October 2023), pp. 1-6.

Here, MDHHS alleged that Petitioner's residence was not an eligible group living facility, as defined by policy. Petitioner testified that she and her husband lived in an apartment in American House, an assisted living community. Petitioner provided a copy of her Rental and Services Agreement, which states, "American House is not a licensed nursing home, home for the aged, or adult foster care as defined in applicable statutes and regulations" (Exhibit A, p. 13). The Rental Agreement indicated that American House would provide the following services: maid service, housekeeping, personal laundry, breakfast, dinner and supper (Exhibit A, p. 10).

The record shows that MDHHS properly determined that American House was an institution for the purposes of FAP, because it provided food, shelter and some treatment or services to Petitioner. Petitioner did not present sufficient evidence to negate MDHHS' determination that American House meets the definition of an institution. As a resident of an institution, Petitioner would only be eligible for FAP if the institution was authorized to

accept FAP or if the institution was an eligible group living facility, as defined by BEM 615. No evidence was presented that American House was authorized to accept FAP by FNS. Additionally, the Rental Agreement indicates that it is not a licensed nursing home, home for the aged, or an adult foster care home. No evidence was presented to show that American House was a CMH/MDHHS Supported Community Living facility, a substance abuse and treatment center, a domestic violence shelter, federally subsidized housing for the elderly, or temporary housing for the homeless. Therefore, no evidence was presented to show that American House was an eligible institution for the purposes of FAP and MDHHS properly determined that Petitioner was ineligible for FAP based on institutional status.

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 MDHHS acted in accordance with Department policy when it terminated Petitioner's FAP benefits.

DECISION AND ORDER

Accordingly, MDHHS decision is **AFFIRMED**.



Linda Jordan
Administrative Law Judge

LJ/tm

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
Linda Gooden
Oakland County Southfield District III
25620 W. 8 Mile Rd
Southfield, MI 48033
**MDHHS-Oakland-6303-
Hearings@michigan.gov**

Interested Parties
M. Holden
N. Denson-Sogbaka
B. Cabanaw
BSC4

Via-First Class Mail :

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