



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



Date Mailed: February 8, 2024  
MOAHR Docket No.: 23-009803  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Caralyce M. Lassner**

### **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 by telephone on January 29, 2023. Petitioner was present and represented himself. The Department of Health and Human Services (Department) was represented by Arnesia Woods, Eligibility Specialist.

### **ISSUE**

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefit case effective December 1, 2023?

### **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 15, 2023 Petitioner returned his annual review to the Department. (Exhibit A, pp. 28 – 30).
3. On October 20, 2023, the Department reviewed Petitioner's annual review. (Exhibit A, p. 9, Entry 65).
4. Petitioner reported his address to be [REDACTED] Michigan (Address). (Exhibit A, p. 28).

5. Because Petitioner's wife (Wife) also resided at Address, the Department placed Petitioner in Wife's FAP group and closed Petitioner's FAP case. (Exhibit A, pp. 1, 9, Entry 69).
6. On October 30, 2023 the Department issued a Notice of Case Action closing Petitioner's FAP case effective December 1, 2023 ongoing. (Exhibit A, p. 22).
7. On October 30, 2023 the Department issued a shelter verification form to Petitioner. (Exhibit A, pp. 16 – 19).
8. On December 4, 2023, Petitioner returned the shelter verification form to the Department identifying his address as Address but did not include a unit or apartment number. He wrote in "two family flat" and stated that he paid \$350 in monthly rent. The form was not signed. (Exhibit A, pp. 16 – 19).
9. On December 18, 2023, Petitioner submitted a request for hearing to dispute closure of his 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. 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.

Petitioner requested a hearing to dispute closure of his FAP case. (Exhibit A, pp. 3 – 4). Petitioner completed and returned his required mid-certification annual review to the Department on September 15, 2023. (Exhibit A, pp. 28 – 30). The Department closed Petitioner's FAP case on October 30, 2023, effective December 1, 2023, based on its determination that Petitioner resides with Wife.

For purposes of FAP, the relationship and interactions between people who live together determines whether each individual must be included in the group. BEM 212 (January 1, 2022). Policy requires that people who are married to each other and live together must be in the same FAP group. BEM 212, p. 1. However, "living with" means sharing a home where the spouses usually sleep **and share** any common living quarters such as a kitchen, bathroom, bedroom, or living room. Simply sharing an access area such as an entryway, hallway, or laundry room does not constitute living together. BEM 212, p. 3 (emphasis added).

In this case, Petitioner testified that he is estranged from Wife and that his residence of record at Address is a home with two separate living units. He testified that once one enters the front door, one may enter one of two units. He rents the second unit, identified as "2", from Wife for \$350.00 per month. He further testified that his unit may only be accessed by key through a locked door and is comprised of living quarters completely separate from the remainder of the house and includes a kitchen, bathroom, dining and living rooms, and the like. Petitioner further testified that he showed, or attempted to show, a video of the unit to a Department worker. While Petitioner's testimony was credible, Petitioner had the opportunity to verify his separate residence by returning a completed shelter verification form to the Department.

The Department testified that it relied on a photograph of the home accessed through public records to determine that address of Petitioner's residence is a single family home and therefore Petitioner is living with Wife. The Department further testified that it also relied on the absence of a second gas meter as a reliable factor when it determined that Petitioner does not live in a unit separate from Wife at his address. The presence or absence of separate entrances or utilities at a property is not identified as a determining or conclusive factor to establish whether one is "living with" their spouse. BEM 212, p. 3. However, the Department noted that Wife reported Petitioner as "living with her at this address" in case notes in Petitioner's case. (Exhibit A, p. 9, Entry 69). While Wife was not present for questioning regarding this information at the hearing, the Petitioner had the opportunity to return a completed shelter verification form to the Department which may have refuted Wife's report to the Department.

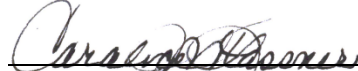
Policy requires that before determining eligibility, the Department is to give the client a reasonable opportunity to resolve any discrepancy between his or her statements and information from another source. BAM 130 (October 2023), p. 9. The Department did so in the form of a shelter verification form. While the shelter verification form was issued the same day as the notice of case action closing Petitioner's FAP case October 30, 2023, the FAP closure was not effective until December 1, 2023. The Petitioner had time to complete and return the shelter verification form to the Department prior to the effective date of the closure. The shelter verification form requested that Petitioner provide a lease or the form signed by the landlord. Petitioner returned the form on December 4, 2023, after his FAP case closed. Furthermore, there was no lease attached and it was not signed by Wife as the landlord.

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 closed Petitioner's FAP case effective December 1, 2023.

**DECISION AND ORDER**

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

CML/ml

  
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**Caralyce M. Lassner**  
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**

Dora Allen

Wayne-Gratiot/Seven-DHHS

4733 Conner Suite G 7 Lappin

Detroit, MI 48215

**MDHHS-Wayne-76-Hearings@michigan.gov**

**Interested Parties**

BSC4

M Holden

B Cabanaw

N Denson-Sogbaka

**Via First Class Mail:**

**Petitioner**

[REDACTED]  
MI