



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  
DIRECTOR

[REDACTED] MI [REDACTED]

Date Mailed: March 6, 2024  
MOAHR Docket No.: 24-000758  
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 February 29, 2024. Petitioner appeared and was assisted by his son, [REDACTED] (Son), who served as Petitioner's translator and witness. The Department of Health and Human Services (Department) was represented by Victoria Cheatham, Case Manager.

### **ISSUE**

Did the Department properly exclude Son from Petitioner's Food Assistance Program (FAP) group?

### **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 is an ongoing recipient of FAP benefits and has four (4) members of his household: himself, his wife [REDACTED] (Spouse), Son, and daughter [REDACTED] (Daughter). (Exhibit A, p. 1 and 7).
2. On January 25, 2024, the Department issued a Notice of Case Action (NOCA) approving Petitioner for monthly FAP benefit of \$766 for a group size of three (3) effective February 1, 2024. The NOCA identified the group members as Petitioner, Spouse, and Daughter. (Exhibit A, pp. 6 – 7).

3. Son is a full time college student at [REDACTED] – [REDACTED] and does not work, receive financial assistance from the Perkins Loan or similar program, and does not participate in a work study program.
4. On January 22, 2024, Petitioner submitted a Request for Hearing to the Department requesting that Son be added back onto the FAP group. (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. 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 submitted a request for hearing to the Department on January 22, 2024, requesting that Son be re-added to the FAP group. The Department removed Son from the FAP group due to Son being an ineligible student.

Each time the Department evaluates eligibility of a person and household for FAP benefits, it must determine who must be included in the FAP group. BEM 212 (January 2022), p. 1. People who live together and purchase and prepare food together must be included in the same group. BEM 212, p. 1. Additionally, parents and their children under the age of 22 who reside together must be included in the same group. BEM 212, p. 1. However, a person in student status who does not meet the criteria set forth in BEM 245 is deemed an ineligible student and is not included in the FAP group. BEM 212, p. 9.

For purposes of FAP, a person is in student status if they are age 18 – 49 and enrolled half-time or more in a) a vocational, trade, business, or technical school that usually requires a high school diploma or GED, or b) at college or university that offers degree programs regardless of whether a diploma is required. In order for a person in student status to be eligible for FAP benefits, they must meet at least one of the criteria listed in the student status policy, such as maintaining employment for an average of twenty (20) hours per week, receiving financial assistance from the Perkins Loan or similar program, or be working in a work study program, among other things. BEM 245 (July 2023), pp. 3 – 6.

In this case, the Department determined Petitioner's group size is three (3) and comprised of Petitioner, Spouse, and Daughter. (Exhibit A, pp. 6 – 7). The Department testified that Son is a full-time student and does not work, does not receive financial assistance through the Perkins Loan or a similar qualifying program, or work in a work study program and is therefore an ineligible student. As an ineligible student, Son is excluded from the FAP group. Son testified that he is a student at [REDACTED] – [REDACTED] does not receive student loans, and does not work in a work study program. Based on Son's testimony, the Department properly concluded Son is an ineligible student.

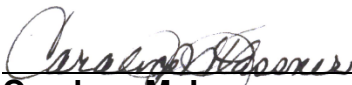
Should Son's school or work circumstances change in the future, Petitioner may request the Department reevaluate Petitioner's group and FAP benefits at that time.

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 excluded Son from Petitioner's FAP group.

### **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**  
Susan Noel  
Wayne-Inkster-DHHS  
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**Interested Parties**

BSC4  
M Holden  
B Cabanaw  
N Denson-Sogbaka

**Via First Class Mail:**

**Petitioner**

[REDACTED]  
[REDACTED]  
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