



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]  
[REDACTED], MI [REDACTED]

Date Mailed: March 27, 2024  
MOAHR Docket No.: 24-001923  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Christian Gardocki**

### **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 via telephone conference line on March 25, 2024. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Lori Turner, specialist.

### **ISSUE**

The issue is whether MDHHS properly determined Petitioner to be ineligible for FAP benefits due to student status.

### **FINDINGS OF FACT**

The administrative law judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On [REDACTED] [REDACTED] 2024, Petitioner applied for FAP benefits and reported a household with no other persons. Petitioner additionally reported being enrolled in college and/or a vocational school.
2. On January 24, 2024, MDHHS approved Petitioner for expedited FAP benefits for January 2024 and terminated Petitioner's FAP eligibility beginning February 2024 due to being an ineligible student.
3. As of January 2024, Petitioner was enrolled at least halftime in a college curriculum while being aged 18-49 years. Also, Petitioner was not employed, engaged in work study, or participating in any exceptions to student status.

4. On February 13, 2024, Petitioner requested a hearing to dispute the denial of FAP benefits based on student status.

### **CONCLUSIONS OF LAW**

The 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 the FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011. FAP policies are contained in the BAM, BEM, and RFT.

Petitioner requested a hearing, in part, to dispute FAP eligibility. Exhibit A, p. 3. Petitioner applied for FAP benefits on [REDACTED] 2024.<sup>1</sup> Exhibit A, pp. 12-18. MDHHS approved Petitioner for expedited FAP benefits beginning January 2024.<sup>2</sup> A Notice of Case Action dated January 8, 2024 stated that Petitioner was denied FAP benefits beginning February 2024 due to Petitioner's student status. Exhibit A, pp. 6-9.

A person in student status must meet certain criteria to be eligible for FAP benefits. A person is in student status if he/she is:

- Age 18 through 49; and
- Enrolled half-time or more in either a:
  - Vocational, trade, business, or technical school that normally requires a high school diploma or an equivalency certificate.
  - 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.

It was not disputed that Petitioner was 18-49 years old. Petitioner's testimony acknowledged being enrolled half-time or more as a college student when applying for FAP benefits.<sup>3</sup> The evidence established that MDHHS properly determined Petitioner to be in student status.

For a person in student status to be eligible for FAP benefits, he or she must meet one of the following criteria:

- Receiving FIP benefits
- Enrolled in an institution of higher education as a result of participation in:
  - A JTPA program.
  - A program under section 236 of the Trade Readjustment Act of 1974 (U. S. C. 2296).
  - Another State or local government employment and training program.

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<sup>1</sup> Petitioner's application was received by MDHHS one day earlier but was properly registered for the next business day due to its submission after business hours (see BAM 110).

<sup>2</sup> Clients eligible for expedited FAP benefits are eligible for an initial month of benefits based on application reporting (see BAM 117). Future benefits are withheld until the full application process is complete.

<sup>3</sup> Petitioner's acknowledgement was consistent with the application reporting that she was a college student. Exhibit A, p. 14.

- Physically or mentally unfit for employment.
- Employed for at least 20 hours per week and paid for such employment.
- Self-employed for at least 20 hours per week and earning weekly income at least equivalent to the federal minimum wage multiplied by 20 hours.
- Participating in an on-the-job training program. A person is considered to be participating in an on-the-job training program only during the period of time the person is being trained by the employer.
- Participating in a state or federally-funded work study program (funded in full or in part under Title IV-C of the Higher Education Act of 1965, as amended) during the regular school year (i.e. work study).
- Providing more than half of the physical care of a group member under the age of six.
- Providing more than half of the physical care of a group member age six through eleven and the local office has determined adequate child care is not available to:
  - Enable the person to attend class and work at least 20 hours per week.
  - Participate in a state or federally-financed work study program during the regular school year.
- A single parent enrolled full-time in an institution of higher education who cares for a dependent under age 12. This includes a person who does not live with his or her spouse, who has parental control over a child who does not live with his or her natural, adoptive or stepparent.

BEM 245 (April 2021) pp. 3-5.

Petitioner testified that he lost employment shortly before applying for FAP benefits. Petitioner testified he currently receives unemployment benefits and is looking for employment. Petitioner's circumstances do not meet any of the above exceptions to student status. During the hearing, Petitioner was asked about the above exceptions to student status; none were applicable.

Given the evidence, MDHHS properly determined that Petitioner was in student status and met no exceptions. Because Petitioner was the only member of the FAP benefit group, MDHHS properly determined Petitioner was ineligible for FAP benefits beginning February 2024.

**DECISION AND ORDER**

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly denied Petitioner's application for FAP benefits dated [REDACTED] 2024, due to Petitioner's student status. The actions taken by MDHHS are **AFFIRMED**.

CG/nr



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**Christian Gardocki**  
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**

Tara Roland 82-17  
Wayne-Greenfield/Joy-DHHS  
8655 Greenfield  
Detroit, MI 48228  
**MDHHS-Wayne-17-  
hearings@michigan.gov**

**Interested Parties**

Wayne 17 County DHHS  
BSC4  
M. Holden  
N. Denson-Sogbaka  
B. Cabanaw  
MOAHR

**Via-First Class Mail :**

**Petitioner**

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