



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

MARLON I. BROWN  
DIRECTOR

[REDACTED]  
[REDACTED]  
[REDACTED]

Date Mailed: May 13, 2024  
MOAHR Docket No.: 24-003376  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Kevin Scully**

**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; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on May 8, 2024, from Lansing, Michigan. The Department was represented by Jennifer Richard, Regulation Agent of the Office of Inspector General (OIG). Respondent did not appear at the hearing, and it was held in Respondent's absence pursuant to 7 CFR 273.16(e), Mich Admin Code R 400.3130(5), or Mich Admin Code R 400.3178(5).

**ISSUE**

Did the Department of Health and Human Services (Department) properly determine Petitioner's eligibility for the Food Assistance Program (FAP)?

**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 March [REDACTED] 2024, the Department received Petitioner's application for Food Assistance Program (FAP) benefits as a household of two. Exhibit A, pp 6-7.
2. Petitioner reported to the Department that she lives with her niece and that she is the guardian of her niece.
3. On March [REDACTED] 2024, the Department notified Petitioner that she is eligible for Food Assistance Program (FAP) benefits as a household of one effective April 1, 2024. Exhibit A, p 37.
4. On March 26, 2024, the Department received Petitioner's request for a hearing protesting the level of Food Assistance Program (FAP) benefits she is receiving. Exhibit A, pp 4-5.

## **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) is funded under the federal Supplemental Nutrition Assistance Program (SNAP) established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 through 7 USC 2036a. It is implemented by the federal regulations contained in 7 CFR 273. The Department administers FAP pursuant to MCL 400.10 of the Social Welfare Act, MCL 400.1 *et seq*, and Mich Admin Code, R 400.3001 through 400.3011.

FAP group composition is established by determining who lives together, the relationship of the people who live together, whether the people living together purchase and prepare food together or separately, and whether the person resides in an eligible living situation. Department of Human Services Bridges Eligibility Manual (BEM) 212 (March 1, 2024), p 1.

On March 7, 2024, Petitioner filed an application for FAP benefits as a household of two including herself and her niece. No evidence was presented on the record that Petitioner is not living with her niece, or that Petitioner is the guardian of her niece. No evidence was offered to establish that Petitioner's claims of living with her niece were questionable.

A member add that increases benefits is effective the month after it is reported or, if the new member left another group, the month after the member delete. When a member leaves a group to join another group, a member delete should be completed in the month the local office learns of the application. The Department will initiate recoupment if necessary. If the member leaving the group decreases benefits of the group, adequate notice is allowed. BEM 212, p 9.

The Department's representative testified that Petitioner's niece is part of the benefit group of another household and that this other household cannot be changed because the ongoing eligibility of that household is currently being redetermined.

However, in the absence of any information that Petitioner's claim that she is living with her niece is questionable, Petitioner is entitled to have her niece added to the FAP benefit group in the month after the change is reported. In this case, the hearing record supports a finding that Petitioner reported that she was living with her niece on March █ 2024. Petitioner is entitled to have her eligibility for ongoing FAP benefits as a household of two effective April 1, 2024. If the removal of Petitioner's niece from another FAP benefit group would reduce benefits for that group, the Department is directed by BEM 212 to complete the member delete in the month that the Department learns of the application and give that group adequate notice of the change.

The Department's representative credibly testified that the Department's computer system prevents her from adding the niece to Petitioner's FAP benefit group.

However, this does not change Petitioner's entitlement to food assistance in the absence of information that the size and composition of Petitioner's household as reported on her March 2024, application form is questionable.

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 did not act in accordance with Department policy when it determined Petitioner's eligibility for Food Assistance Program (FAP) benefits effective April 1, 2024.


### **DECISION AND ORDER**

Accordingly, the Department's decision is REVERSED.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Initiate a determination of the Petitioner's eligibility for the Food Assistance Program (FAP) effective April 1, 2024.
2. Provide the Petitioner with written notice describing the Department's revised eligibility determination.
3. Issue the Petitioner any retroactive benefits she may be eligible to receive, if any.

KS/dm

  
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**Kevin Scully**  
Administrative Law Judge  
Michigan Office of Administrative Hearings  
and Rules (MOAHR)

**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**  
Kimberly Kornoelje  
Kent County DHHS  
**MDHHS-Kent-  
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**HoldenM**

**DensonSogbakaN**

**BSC3HearingDecisions**

**MOAHR**

**Via-First Class Mail :**

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