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GOVERNOR

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

MARLON I. BROWN, DPA
DIRECTOR

[REDACTED]
[REDACTED]
MI [REDACTED]

Date Mailed: May 8, 2024
MOAHR Docket No.: 24-003550
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 May 1, 2024. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Megan latonna, hearings facilitator.

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 benefit group with no other persons. Petitioner additionally reported being disabled.
2. As of March 19, 2024, Petitioner was enrolled at least halftime in a college curriculum while aged 18-49 years.
3. On March 28, 2024, MDHHS denied Petitioner's application due to Petitioner being in student status.
4. As of March 28, 2024, MDHHS had not requested verification of Petitioner's disability.

5. On March 29, 2024, Petitioner verbally 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 Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner verbally requested a hearing to dispute a denial of FAP benefits.¹ Exhibit A, pp. 4-6. Petitioner applied for FAP benefits on March 19, 2024. Exhibit A, pp. 8-14. A Notice of Case Action dated March 28, 2024 stated that Petitioner was denied FAP benefits due to Petitioner's student status. Exhibit A, pp. 22-25.

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. 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.
- 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.

¹ Clients may verbally request a hearing to dispute FAP eligibility (see BAM 600).

- 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 testimony implied she should not be in student status because she is financially dependent upon her family. Financial dependence is not an exception to student status.

Petitioner also testified she has cauda equina syndrome and is disabled. Petitioner's testimony was consistent with her application which reported a claimed disability. Exhibit A, p. 10. Petitioner's claim of disability equated to claiming to be physically or mentally unfit for employment. Physical or mental unfitness for employment may be verified by any of the following:

- Award letter or other verification of eligibility for Retirement, Survivors, and Disability Insurance (RSDI) or Supplemental Security Income (SSI) on the basis of disability.
- Award letter or other verification of eligibility for disability benefits issued by government or private sources.
- Statement from an M.D. D.O., or psychologist

It was not disputed that Petitioner was not certified as disabled by a government agency. However, Petitioner could have verified physical unfitness with a physician letter. It was not disputed that MDHHS received no such letter from Petitioner's doctor. However, MDHHS never requested such a letter.

For all programs, MDHHS is to tell the client what verification is required, how to obtain it, and the due date. BAM 130 (October 2023) p. 3. MDHHS is to use the DHS-3503, Verification Checklist (VCL), to request verification. *Id.* MDHHS is to allow the client 10 calendar days (or other time limit specified in policy) to provide the verification that is requested. *Id.*, p. 7.

Petitioner's claim of disability on the application should have prompted MDHHS to request verification of physical or mental unfitness once it learned of Petitioner's student status. MDHHS provided no evidence that such a letter was requested. The failure by MDHHS to request verification of physical or mental unfitness entitles Petitioner to an application reprocessing and an opportunity to verify physical or mental unfitness.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly denied Petitioner's application for FAP benefits. It is ordered that MDHHS commence the following actions within 10 days of the date of mailing of this decision:

- (1) Reregister and process Petitioner's FAP application dated [REDACTED] [REDACTED] 2024, subject to the finding that MDHHS failed to request from Petitioner verification of physical or mental unfitness; and
- (2) Issue supplements and notice, if any, in accordance with policy

The actions taken by MDHHS are **REVERSED**.

CG/nr



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

Dawn Tromontine
Macomb County DHHS Sterling
Heights Dist.
41227 Mound Rd.
Sterling Heights, MI 48314
**MDHHS-Macomb-36-
Hearings@michigan.gov**

Interested Parties

Macomb 36 County DHHS
BSC4
M. Holden
N. Denson-Sogbaka
B. Cabanaw
MOAHR

Via-First Class Mail :

Petitioner

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