Date Mailed: June 18, 2024
MOAHR Docket No.: 24-005277
Agency No.: ▮▮▮▮▮▮
Petitioner: ▮▮▮▮▮▮

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 June 12, 2024. Petitioner appeared and represented himself. The Department of Health and Human Services (Department) was represented by Kimberly Jefferson, Assistance Payments Worker, and Cathy Burr, Assistance Payments Supervisor.

ISSUE

Did the Department properly deny Petitioner's Food Assistance Program (FAP) February 29, 2024 application?

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 F▮▮▮▮▮▮ 2024, the Department received a FAP application from Petitioner. (Exhibit A, pp. 11 – 18).

2. Petitioner requested FAP benefits for a household of one and disclosed that he was enrolled in college/vocational school and worked at ▮▮▮▮▮▮ (Employer) for ▮▮▮▮▮▮ per month. He did not report how many hours per week he worked at Employer. (Exhibit A, pp. 12 – 13, 15).

3. On March 1, 2024, Petitioner was interviewed by the Department. (Exhibit A, pp. 19 – 25).

4. During his interview, Petitioner told the Department that he was enrolled at ▉▉▉▉▉▉▉▉▉▉, was not engaged in a state or federally funded work-study program or the Carl D. Perkins Career and Technical Education Improvement program, and that he could not give an estimate of the number of hours he worked per week and that his hours varied according to his school hours. (Exhibit A, pp. 20, 23).

5. On March 8, 2024, the Department received verification of Petitioner's employment from ▉▉▉▉▉▉▉▉▉▉▉▉▉▉▉▉▉▉▉ (CPA). The verification confirmed Petitioner's monthly earnings but did not include the number of hours he worked or an hourly wage. (Exhibit A, pp. 1, 31).

6. On March 22, 2024, the Department contacted Employer's ▉▉▉ by telephone regarding the number of hours Petitioner worked for Employer. The ▉▉▉ representative stated that Petitioner did not work a certain number of hours per week and only worked depending on his school schedule. (Exhibit A, p. 1).

7. On March 22, 2024, the Department sent Petitioner a Notice of Case Action (NOCA), denying Petitioner FAP benefits because Petitioner was not an eligible student. (Exhibit A, pp. 27 – 30).

8. On May 2, 2024, the Department received Petitioner's request for hearing, disputing denial of FAP benefits and stating that he met the eligibility requirements for FAP. (Exhibit A, pp. 3 – 9).

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 denial of his application for FAP assistance based on the Department determining that he was an ineligible student.

Each time the Department receives an application for FAP, the Department must determine the individual's eligibility for that program. BEM 212 (March 2024), p. 1. A person in student status who does not meet the criteria set forth in BEM 245 is deemed an ineligible student and is not eligible for FAP. BEM 212, p. 10.

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. BEM 245 (July 2023), pp. 3 – 4. 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, be engaged in the Carl D. Perkins Career and Technical Education Improvement program or similar program, or be working in a state or federally-funded work study program, among other things. BEM 245, pp. 3 – 6.

In this case, Petitioner testified that he was a full-time student at ▮▮▮▮▮▮▮▮▮▮ (Exhibit A, p. 20). Petitioner disclosed, on his application and during his interview, that he worked for Employer but did not state how many hours he was working per week. (Exhibit A, pp. 15, 23). The Department made several efforts to determine how many hours per week Petitioner was working but neither Petitioner nor Employer's ▮▮▮▮ would confirm Petitioner was working an average of 20 hours per week. (Exhibit A, pp. 1, 23).

During the hearing, Petitioner testified that he had reviewed the applicable Department policy and that he did work an average of 20 hours per week while working for Employer. However, clients have a responsibility to completely and truthfully answer all questions on forms and in interviews (BAM 105 (March 2024), p. 8) and the Department had asked Petitioner about how many hours per week he worked for Employer and Petitioner did not provide the requested information. (Exhibit A, pp. 1, 23). Therefore, Petitioner did not establish that he was working an average of 20 hours per week at the time the Department denied Petitioner FAP benefits, and the Department properly denied Petitioner's application for FAP benefits.
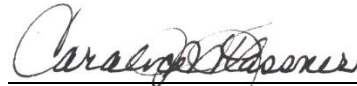
During the hearing, Petitioner testified that he has since obtained different employment and is working at least an average of 20 hours per week. Petitioner was advised that he may reapply for FAP based on his current circumstances.

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 denied Petitioner FAP benefits based on his status as an ineligible student.

DECISION AND ORDER

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

CML/pt   **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**
Trista Waishkey
Washtenaw County DHHS
22 Center Street
Ypsilanti, MI 48198
MDHHS-Washtenaw-Hearings@michigan.gov

Interested Parties
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M Holden
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N Denson-Sogbaka
MOAHR

Via-First Class Mail: **Petitioner**
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