



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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Date Mailed: December 8, 2022
MOAHR Docket No.: 22-005101
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Danielle Nuccio

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 telephone hearing was held on December 5, 2022. The Petitioner appeared and represented herself. The Department of Health and Human Services (MDHHS) was represented by Haysem Hosny, Hearing Coordinator.

ISSUE

Did MDHHS properly close Petitioner’s Food Assistance Program (FAP) case and deny her ██████████ 2022 FAP 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. Petitioner was an ongoing recipient of FAP. Despite an active case, Petitioner submitted an application for FAP on ██████████ 2022.
2. Petitioner reported on her new FAP application that she is a resident of an adult foster home, Beacon Home at New Haven (AFC).
3. The AFC that Petitioner resides in is a for-profit company (Exhibit A, pp. 11-12).
4. On ██████████ 2022, MDHHS issued a Notice of Case Action, informing Petitioner that her current FAP case is closed and her new FAP application is denied, due to her institutional status (Exhibit A, pp. 13-17).

5. On November 4, 2022, MDHHS received a timely submitted request for hearing from Petitioner, disputing that she is no longer receiving FAP due to her institutional status (Exhibit A, pp. 4-7).

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.

In this case, Petitioner disputes that her FAP case has closed, and new application denied, due to her institutional status.

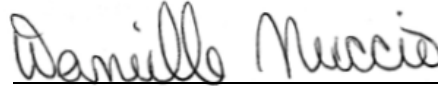
Petitioner confirmed that she currently resides in an adult foster care home (AFC). AFCs must be licensed by the License and Regulatory Affairs (LARA) Bureau of Community and Health Systems (BCHS) to offer either, or both, domiciliary care and personal care. In order to be eligible for FAP as an AFC home resident, the home **must be nonprofit** and licensed for 16 or fewer residents. Nonprofit means IRS tax exempt. BEM 615 (October 2021), pp. 1-2 (Emphasis added). MDHHS presented LARA records showing that the AFC in which Petitioner resides is a licensed, for-profit, facility (see Exhibit A, pp. 11-12). Since the facility is for-profit, its residents are not eligible for FAP benefits, as stated in BEM 615. Therefore, MDHHS acted in accordance with policy in closing Petitioner's FAP case and denying her FAP application due to her institutional status.

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 closed Petitioner's FAP case and denied her [REDACTED] 2022 FAP application.

DECISION AND ORDER

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

DN/mp



Danielle Nuccio

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
MDHHS-Macomb-36-Hearings
D. Sweeney
M. Holden
MOAHR
BSC4

Via-First Class Mail :

Petitioner

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