



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

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

Date Mailed: December 14, 2022  
MOAHR Docket No.: 22-005285  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Ellen McLemore**

### **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 12, 2022, from Detroit, Michigan. Petitioner was present and represented himself. The Department of Health and Human Services (Department) was represented by William Carper, Eligibility Specialist.

### **ISSUE**

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefit case?

### **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 FAP recipient.
2. In September 2022, Petitioner's FAP benefit case was audited (Exhibit A, pp. 7-8).
3. Petitioner was the sole member of his FAP group.
4. Petitioner was enrolled in secondary education.
5. On November 3, 2022, the Department sent Petitioner a Notice of Case Action informing him that his FAP benefit case was closing effective December 1, 2022, ongoing (Exhibit A, pp. 10-14).

6. On [REDACTED], 2022, Petitioner submitted a request for hearing disputing the Department's actions.

### **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 was an ongoing FAP recipient. Petitioner was the only member of his FAP group and was enrolled in secondary education. On November 3, 2022, the Department closed Petitioner FAP benefit case, as he was an ineligible student.

A person is in student status if he is: age 18 through 49 and enrolled half-time or more in a: vocational, trade, business, or technical school that normally requires a high school diploma or an equivalency certificate, or a regular curriculum at a college or university that offers degree programs regardless of whether a diploma is required. BEM 245 (January 2018), p. 3-4. In order for a person in student status to be eligible, they must meet one of the following criteria: (i) receiving FIP; (ii) enrolled in an institution of higher education as a result of participation in a Job Training Partnership Act (JTPA), a program under the Trade Readjustment Act or another state or local government employment and training program; (iii) physically or mentally unfit for employment; (iv) employed for at least an average of 20 hours per week and paid for such employment; (v) self-employed for at least an average of 20 hours per week and earning an average weekly income at least equivalent to the federal minimum wage multiplied by 20 hours; (vi) participating in a state or federally-funded work study program during the regular school year; (vii) providing more than half of the physical care of a group member under the age of six; (viii) 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 or participate in a state or federally-financed work study program during the school year; or (ix) a single parent enrolled full-time in an institution of higher education who cares for a dependent under age 12. BEM 245, p. 5. For the care of a child under age six, consider the student to be providing physical care as long as he or she claims primary responsibility for such care, even though another adult may be in the FAP group. BEM 245, p. 5.

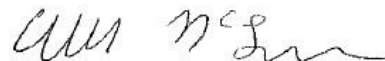
The Consolidated appropriations act of 2021, temporarily expands student eligibility for students who have an Expected Family Contribution (EFC) of \$0 in the current academic year based on the student's Free Application for Federal Student Aid (FAFSA). BEM 245, p. 5. This exemption will remain effective until 30 days after the COVID-19 public health emergency is lifted. BEM 245, p. 5. The 2021-2022 FAFSA academic year covered courses from July 1, 2022, through June 30, 2023. See: <https://studentaid.gov/help/school-year>. The COVID-19 public health emergency is currently still in effect.

At the hearing, Petitioner acknowledged that he was enrolled in school half time and was not working more than 20 hours per week. Petitioner did receive student aid (Exhibit A, p. 9). Per the document provided, Petitioner's EFC was not 0. Petitioner did not provide any rebuttal evidence. Therefore, Petitioner was an ineligible student, and the Department acted in accordance with policy when it closed Petitioner's FAP benefit case.

### **DECISION AND ORDER**

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

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**Ellen McLemore**  
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**  
Yvonne Hill  
Oakland County DHHS Madison  
Heights Dist.  
30755 Montpelier Drive  
Madison Heights, MI 48071  
**MDHHS-Oakland-DistrictII-  
Hearings@michigan.gov**

**Interested Parties**

M. Holden  
D. Sweeney  
BSC4

**Via-First Class Mail :**

**Petitioner**

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