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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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DIRECTOR

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Date Mailed: April 18, 2023
MOAHR Docket No.: 23-000927
Agency No.: ██████████
Petitioner: ██████████

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 April 12, 2023. Petitioner appeared and was unrepresented. Halena Parvin, Petitioner’s daughter, testified on Petitioner’s behalf. The Michigan Department of Health and Human Services (MDHHS) was represented by Dania Ajami, lead worker. An MDHHS specialist, Nargis Wahid, participated as a Bengali-English translator.

ISSUES

The first issue is whether MDHHS properly terminated Petitioner’s Family Independence Program (FIP) eligibility.

The second issue is whether MDHHS properly excluded Petitioner’s son from Petitioner’s Food Assistance Program (FAP) eligibility.

FINDINGS OF FACT

The administrative law judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. As of December 2022, Petitioner was a member of a household that included his wife and his son, ██████████ (hereinafter, “Son”).
2. As of December 2022, Son was a full-time college student and aged ██████████ years.
3. On January 5, 2023, MDHHS terminated Petitioner’s FIP eligibility beginning February 2023 due to Petitioner having no dependent children.

4. On January 30, 2023, MDHHS reduced Petitioner's FAP eligibility beginning March 2023 due to Son being an ineligible group member due to student status,
5. On February 13, 2023, Petitioner requested a hearing to dispute the termination of FIP benefits and removal of Son from Petitioner's FAP group.

CONCLUSIONS OF LAW

The Family Independence Program was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. MDHHS administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101-.3131. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing, in part, to dispute a termination of FIP benefits. Exhibit A, pp. 3-4. A Notice of Case Action dated January 5, 2023, stated that Petitioner's FIP eligibility would end February 2023 due to Son being noncompliant with school attendance requirements. Exhibit A, pp. 12-17. The stated reason for closure implies that Son failed to attend school when required to do so; there was no evidence that Son failed to comply with school attendance requirements. However, MDHHS still contended that Petitioner was ineligible for FIP benefits after Son graduated high school.

FIP group composition is the determination of which individuals living together are included in the program group. BEM 210 (July 2021) p. 1. To be eligible for FIP, the group must include a dependent child who lives with a legal parent, stepparent or other qualifying caretaker. *Id.* A dependent child is an unemancipated child who lives with a caretaker and is either of the following:

- Under the age of 18 years; or
- 18-years-old and a full-time high school student.

It was not disputed that Petitioner was a member of a household that included only his wife and Son. It was also not disputed that Son was at least ■ years old and a high school graduate. Under the circumstances, Petitioner and his wife had no dependent children in their household. Without a dependent child, Petitioner was ineligible for FIP benefits. Thus, MDHHS properly ended Petitioner's FIP eligibility.

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 BAM, BEM, and RFT.

Petitioner also requested a hearing to dispute the exclusion of Son in a determination of ongoing FAP eligibility. Exhibit A, pp. 3-4. A Notice of Case Action dated January 30, 2023, stated that Petitioner's FAP eligibility would be reduced to \$377 effective March

2023. MDHHS stated the basis for FAP benefit reduction was Son's exclusion from the benefit group due to student status.

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.

Petitioner's testimony acknowledged that Son was enrolled full-time in a college curriculum and that he was between the ages of 18-49 years. Thus, MDHHS properly determined Son was 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.
- 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.
Id., pp. 3-5.

During the hearing, student status exceptions were discussed with Petitioner. Petitioner did not allege that any exceptions were applicable to Son.¹

Given the evidence, Son was in student status and did not qualify for any student status exceptions. Thus, MDHHS properly determined Petitioner's FAP eligibility beginning March 2023 by excluding Son from Petitioner's benefit group.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly terminated Petitioner's FIP eligibility beginning February 2023. MDHHS also properly excluded Son as a FAP benefit group member beginning March 2023. The actions taken by MDHHS are **AFFIRMED**.

CG/mp



Christian Gardocki

Administrative Law Judge

¹ Petitioner's daughter testified that Son was employed. After being asked if Petitioner reported Son's employment to MDHHS, she then testified that Son was not employed.

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-Wayne-55-Hearings
D. Sweeney
B. Sanborn
M. Holden
MOAHR
BSC4

Via-First Class Mail :

Petitioner
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