



GRETCHEN WHITMER
GOVERNOR

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

MARLON I. BROWN, DPA
ACTING DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: November 21, 2023
MOAHR Docket No.: 23-006614
Agency No.: [REDACTED]
Petitioner: [REDACTED] [REDACTED]

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on November 16, 2023, from Lansing, Michigan. Petitioner represented herself. The Department was represented by William Shoulders and Lakessha Kimbro.

ISSUE

Did the Department of Health and Human Services (Department) properly determine Petitioner's eligibility for the Food Assistance Program (FAP)?

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 September [REDACTED] 2023, Petitioner applied for Food Assistance Program (FAP) benefits.
2. The residence where Petitioner is living is classified as a Single-Family Home by the City of [REDACTED] located at [REDACTED].
3. [REDACTED] [REDACTED] is employed full time and receiving earned income. Mr. [REDACTED] reported to his employer that he was residing at [REDACTED].
4. Petitioner and Mr. [REDACTED] have children in common.
5. On October 4, 2023, the Department received Petitioner's request for a hearing.

6. On October 13, 2023, the Department notified Petitioner that she was eligible for Food Assistance Program (FAP) benefits as a household of eight effective November 1, 2023.

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) is funded under the federal Supplemental Nutrition Assistance Program (SNAP) established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 through 7 USC 2036a. It is implemented by the federal regulations contained in 7 CFR 273. The Department administers FAP pursuant to MCL 400.10 of the Social Welfare Act, MCL 400.1 *et seq*, and Mich Admin Code, R 400.3001 through 400.3011.

FAP group composition is established by determining who lives together, the relationship of the people who live together, whether the people living together purchase and prepare food together or separately, and whether the persons reside in an eligible living situation. Parents and their children under 22 years of age who live together must be in the same group. Department of Human Services Bridges Eligibility Manual (BEM) 212 (January 1, 2022), p 1.

Living with means sharing a home where family members usually sleep and share any common living quarters such as a kitchen, bathroom, bedroom, or living room. BEM 212, p 3.

On September [REDACTED] 2023, Petitioner applied for FAP benefits. The Department determined Petitioner's eligibility for FAP benefits as a household of eight people, including Petitioner's children, and Joseph Hardyway.

Petitioner and Mr. [REDACTED] have children in common. Petitioner and Mr. [REDACTED] are both living at 1 [REDACTED] which is classified by the City of [REDACTED] as a single-family home. The hearing record supports a finding that Petitioner and Mr. [REDACTED] are living together as defined by BEM 212 because they share common living quarters at their home. The policy does not specify the nature of the relationship between parents and their children to be considered "living together" but only that parents and their children must be in the same FAP benefits group.

Petitioner testified that Mr. [REDACTED] does not support her or her children, but this is not relevant with respect to BEM 212 and the Department's definition of "living together."

Petitioner testified that she is not “living with” Mr. [REDACTED] and that he is living in the upper floor of her residence while she and her children are living on the first floor of her residence.

Petitioner failed to establish that she his not “living with” Mr. [REDACTED] as defined by BEM 212.

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 determined Petitioner’s eligibility for the Food Assistance Program (FAP).

DECISION AND ORDER

Accordingly, the Department’s decision is AFFIRMED.

KS/dm



Kevin Scully
Administrative Law Judge
Michigan Office of Administrative Hearings
and Rules (MOAHR)

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
Denise Ezell
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MDHHS-Wayne-23-
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MOAHR

Via-First Class Mail :

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]