



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
SUZANNE SONNEBORN
EXECUTIVE DIRECTOR

MARLON I. BROWN, DPA
DIRECTOR

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██████████, MI ██████████

Date Mailed: December 3, 2024
MOAHR Docket No.: 24-012121
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 telephone hearing was held via Microsoft Teams on November 27, 2024. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Victoria Cheatham, manager.

ISSUE

The issue is whether MDHHS properly denied 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. On August 8, 2023, Petitioner and his spouse, ██████████ ██████████ (hereinafter, “Spouse”) entered the United States from India; the basis for their U.S. entry was being a parent of a United States citizen.
2. On ██████████ ██████████ 2024, Petitioner and Spouse applied for FAP benefits.
3. On October 17, 2024, MDHHS denied Petitioner’s FAP benefit application due to Petitioner failing to meet citizenship/resident alien requirements.
4. On October 28, 2024, Petitioner requested a hearing to dispute the denial of FAP benefits.

CONCLUSIONS OF LAW

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 Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute a denial of FAP benefits. Exhibit A, pp. 3-5. Petitioner and Spouse applied for FAP benefits on [REDACTED] [REDACTED] 2024. Exhibit A, pp. 9-16. A Notice of Case Action dated September 30, 2024, denied FAP benefits to Petitioner and Spouse due to failing to meet citizenship/eligible alien requirements. Exhibit A, pp. 9-13.

For FAP benefits, a person must be a U.S. citizen or have an acceptable alien status. BEM 225 (January 2024) p. 1. Any of the following persons are considered to have an acceptable alien status:

- United States citizens (includes those born in Puerto Rico)
 - born in Canada and at least 50% American Indian
 - member of American Indian tribe
 - qualified military alien, spouse, or child of qualified military alien,
 - refugee under Section 207
 - asylee under Section 208
 - Cuban/Haitian entrant
 - Amerasian
 - victim of trafficking
 - permanent resident alien with class code of RE, AM, AS, SI or SQ
 - permanent resident alien and has I-151
 - deportation withheld (under certain conditions)
 - granted conditional entry under 203(a)(7)
 - paroled under 212(d)(5) for at least one year (under certain conditions)
 - battered aliens, if more than five years in the United States
 - permanent resident alien with a class code other than RE, AM or AS, if in the United States for longer than 5 years
- Id.* pp. 33-35.

Persons with a class code other than RE, AM or AS who entered the United States after August 22, 1996, may be eligible for FAP benefits for their first five (5) years in the United States if any of the following circumstance are applicable:

- U.S. entry before August 22, 1996
- has 40 countable Social Security credits
- age 65 or older as of August 22, 1996, and was residing in United States on August 22, 1996

- Hmong or Laotian (with other requirements)
 - Currently blind or disabled ¹
 - under 18 years of age
- Id.*, pp. 33-35.

MDHHS presented a copy of Petitioner's and Spouse's green cards. Exhibit A, pp. 7-8. Petitioner's and Spouse's stated country of birth was India; India is not among the countries that would qualify Petitioner and/or Spouse for FAP benefits. Petitioner's and Spouse's entry code in the U.S. was for being a parent of an Untied States citizen; being a parent of a U.S. citizen does not render Petitioner and/or Spouse to be eligible to receive FAP benefits. ² Petitioner's and Spouse's date of U.S. entry was August 28, 2023; because Petitioner's and Spouse's entry date is within the last five years of the denial notice, Petitioner's and/or Spouse's time in the United States would not qualify them to receive FAP benefits.

Petitioner testified he should receive FAP benefits because he is over 65 years of age. Being over 65 does not allow someone to overcome the citizenship/eligible alien requirements for FAP benefits unless Petitioner was 65 years old as of 1996. Given the evidence, MDHHS properly denied FAP benefits to Petitioner and Spouse for failing to meet citizenship/resident alien requirements.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly denied Petitioner's application for FAP benefits dated [REDACTED] [REDACTED] 2024. The actions taken by MDHHS are **AFFIRMED**.

CG/nr



Christian Gardocki
Administrative Law Judge

¹ Disability requires receiving disability benefits or being a disabled veteran or a specified relative of a disabled veteran.

² <https://www.justice.gov/sites/default/files/eoir/legacy/2008/03/26/fr20mr08.pdf>

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
Susan Noel
Wayne-Inkster-DHHS
26355 Michigan Ave
Inkster, MI 48141
MDHHS-Wayne-19-Hearings@michigan.gov

Interested Parties
BSC4
M. Holden
N. Denson-Sogbaka
B. Cabanaw
MOAHR

Via-First Class Mail :

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