



GRETCHEN WHITMER
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: January 22, 2025
MOAHR Docket No.: 24-013851
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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 January 16, 2025, from Lansing, Michigan. The Petitioner was represented by himself. The Department of Health and Human Services (Department) was represented by Julie Parrish. Department Exhibit 1, pp. 1-54 was received and admitted.

ISSUE

Did the Department properly determine Petitioner's Food Assistance Program (FAP) benefit amount?

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 20, 2024, a Notice of Case action was sent to Petitioner informing him that he was eligible for \$292 per month in FAP benefits. Petitioner and his wife were not included in the group because they did not meet student status requirements.
2. On December 12, 2024, Petitioner requested hearing disputing the determination of his FAP benefits.
3. On December 17, 2024, Petitioner submitted a Medical Needs Form completed by his treating physician. The form states "undetermined" in response to the questions "Can patient work at usual occupation?" and "Can patient work at any job?".
4. Petitioner testified at hearing that he is going to school part time for automotive tech training, 8 course hours.

5. Petitioner testified that he suffered a traumatic brain injury and that precludes him from working.

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.

STUDENT STATUS

The school determines full-time enrollment and attendance.

FAP Only

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.
 - Regular curriculum at a college or university that offers degree programs regardless of whether a diploma is required.

In order for a person in student status to be eligible, they must meet one of the following criteria:

- Receiving FIP.
- Enrolled in an institution of higher education as a result of participation in:
- A Job Training Partnership Act (JTPA) program.
- A program under section 236 of the Trade Readjustment Act of 1974 us 19 USC 2341, et. seq.

- Enrolled in a FAE&T or FAE&T plus, in a component or components that are either:
 - Part of a program of career and technical education as defined under the Perkins Strengthening Career and Technical Education Act (Perkins V) and a course of study that will lead to employment.
 - Are limited to remedial courses, basic adult education, literacy, or English as a second language.
- An employment and training program for low-income households operated by state and local government where one or more of the components of such program is at least equivalent to an acceptable FAP employment and training program component. This includes a program under the Carl D. Perkins Career and Technical Education Improvement act of 2006, administered by one of the 35 participating colleges that will lead to employment.

Note: Some examples of career and technical programs offering certificate or diploma that will lead to employment are data entry occupations, medical and health care careers, HVAC and refrigeration, hospitality and tourism management.

- Another state or local government employment and training program.
- Physically or mentally unfit for employment.
- Employed for at least an average of 20 hours per week and paid for such employment.
- 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. 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.

To qualify under this provision the student must be approved for work study during the school term and anticipate actually working during that time. The exemption:

- Starts the month the school term begins or the month work study is approved, whichever is later.

- Continues until the end of the month in which the school term ends, or when the local office becomes aware that the student has refused a work-study assignment.
 - Remains between terms or semesters when the break is less than a full month, or the student is still participating in work study during the break.
- 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.

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 Food Assistance Program (FAP) group.

When determining the availability of adequate child care for a child six through 11, another person in the home, over 18, need not be a FAP group member to provide care.

The person remains in student status while attending classes regularly. Student status continues during official school vacations and periods of extended illness. Student status does not continue if the student is suspended or does not intend to register for the next school term (excluding summer term).

BEM 245 (pp. 3-6)

In this case, Petitioner submitted a Medical Needs form that was completed by his doctor. Petitioner's doctor answered the questions on the Medical Needs form regarding "Can patient work at usual occupation?" and "Can patient work at any job?" by giving the response "undetermined". Petitioner has the burden to establish that he is physically or


mentally unfit for employment. The statement by Petitioner's doctor on the medical needs form is not sufficient to establish that Petitioner is physically or mentally unfit for employment. Petitioner did not meet his burden to establish that he is physically or mentally unfit for employment. Furthermore, the Department's exclusion of Petitioner from the FAP group for failing to meet any of the student status requirements was proper and correct and consistent with Department policy. BEM 245

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 excluded Petitioner from the FAP group for failing to meet any of the student status criteria.

DECISION AND ORDER

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

AM/ml


Aaron McClintic
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

Kimberly Kornoelje
Kent County DHHS
121 Martin Luther King Jr St SE
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MDHHS-Kent-Hearings@michigan.gov

Interested Parties

BSC3
M Holden
B Cabanaw
N Denson-Sogbaka
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Via First Class Mail:

Petitioner

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