



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR



Date Mailed: June 15, 2018
MAHS Docket No.: 18-004610
Agency No.: [REDACTED]
Petitioner: [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 June 6, 2018, from Lansing, Michigan. Petitioner represented herself. The Department of Health and Human Services was represented by Christine Brown, Eligibility Specialist.

ISSUE

Did the Department of Health and Human Services (Department) properly close Petitioner's Food Assistance Program (FAP) benefits?

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 Food Assistance Program (FAP) recipient in Oakland County until [REDACTED] 2018, who is [REDACTED] years of age. Exhibit A, p 8.
2. The Department determined that Petitioner did not meet the specific work requirements in January, February, and March of 2018. Exhibit A, p 8.
3. Petitioner receives monthly earned income from employment in the gross monthly amount of \$709.71 in January of 2018, and \$629.42 in March of 2018. Exhibit A, p 9.
4. The Department's records indicate that Petitioner did not received any earned income in February of 2018. Exhibit A, p 9.

5. On March 26, 2018, the Department received two paycheck stubs showing that Petitioner worked 7.20 hours from March 4, 2018, through March 10, 2018, and 20.40 hours from March 11, 2018, through March 17, 2018. Exhibit A, pp 10-11.
6. On March 30, 2018, the Department notified Petitioner that she was not eligible for Food Assistance Program (FAP) benefits effective April 1, 2018. Exhibit A, pp 4-7.
7. On May 2, 2018, the Department received Petitioner's request for a hearing protesting the closure of her Food Assistance Program (FAP) benefits. Exhibit A, pp 2-3.

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.

A Time-Limited Food Assistance (TLFA) individual must meet specific work requirements to receive benefits. Failure to do so limits the individual's Food Assistance Program (FAP) eligibility to three months within a 36-month period. TLFA individuals who meet all other FAP eligibility criteria are eligible for three countable months of FAP benefits during a 36-month period. The Time Limited Food Assistance policy applies to residents of Oakland County age 18 through 49 as of January 1, 2017. For a FAP benefit month not to be countable, the recipient must work at least 80 hours monthly, or participate in an approved Michigan Works! Agency program for at least 80 hours monthly. Department of Health and Human Services Bridges Eligibility Manual (BEM) 260 (January 1, 2018), pp 1-3/

A FAP recipient may be deferred from TLFA requirements if the FAP group contains a person under age 18, the FAP recipient is pregnant, the FAP recipient is physically or mentally unfit for employment, or the FAP recipient is deferred from employment-related activities per BEM 230B. BEM 620, pp 1-2.

Good cause is having a valid reason for failing to work or participate in an approved program for at least 80 hours monthly.

Examples of good cause reasons include:

- Personal illness.

- Death or illness of a household member requiring the presence of the TLFA recipient in the home.
- The unavailability of transportation.
- Lack of work.
- Household emergency.
- Temporarily unfit for work.

BEM 620, pp 3-5.

In some instances, individuals may have met TLFA requirements but still receive a countable month. If the individual verified that requirements were met, the countable TFLA monthly will be removed. An individual who worked or participated less than the required hours is considered to have met the work requirement if all the following conditions are met:

- The absence was due to circumstances beyond the individual's control.
- It was temporary.
- The individual has retained to job.

BEM 620, pp 3-5.

Verification of good cause is only required if the specialist considers the claim questionable. Verification of good cause will be requested by sending the recipient a Verification Checklist (DHS-3503). BEM 620, p 5.

Petitioner was a FAP recipient in January of 2018 and was subject to TLFA requirements. The record evidence supports a finding that Petitioner received earned income in the gross monthly amount of \$709.71 in January of 2018. The evidence does not indicate how many hours Petitioner worked in January of 2018. The evidence does not indicate if Petitioner had good cause for failing to work the required number of hours in January of 2018.

Petitioner was a FAP recipient in February of 2018 and was subject to TLFA requirements. The record evidence supports a finding that Petitioner failed to meet TLFA requirements in February of 2018, but not whether she had good cause for her failure to meet those requirements.

Petitioner was a FAP recipient in March of 2018 and was subject to TLFA requirements. The record evidence supports a finding that Petitioner worked 27.60 hours in March of 2018, after starting new employment on or around March 4, 2018. No evidence was received documenting the number of hours Petitioner worked from March 17, 2018, through the end of the month. The Department determined that March would be a TLFA countable month on March 30, 2018, which was the day Petitioner could have received her third paycheck for March. Petitioner would not have received a paycheck for the last week of March until approximately April 6, 2018.

Petitioner testified that she missed work due to illness. No evidence was presented establishing that Petitioner had an opportunity to establish good cause for her lack of hours worked, or provide verification of her good cause.

If Petitioner was provided notification of each TLFA countable month, evidence of those notifications was not provided at the hearing. Further, notification of the third countable month would have had to have been sent before the end of the month, or after the date her FAP benefits were already pending to close.

This Administrative Law Judge finds that the Department failed to establish that Petitioner did not meet the TLFA requirements for January of 2018, because only gross income was shown and not the number of hours. The Department also failed to establish that Petitioner failed to meet the TLFA requirements for March of 2018. The Department also failed to establish that Petitioner was given the opportunity to establish good cause for her failure to meet TLFA requirements, or that verification was requested to determine whether she had good cause.

The Department also failed to establish its authority for closing FAP benefits on March 30, 2018, without giving Petitioner timely notice of the negative action effective April 1, 2018.

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 did not act in accordance with Department policy when it closed Petitioner's Food Assistance Program (FAP) benefits as of April 1, 2018.

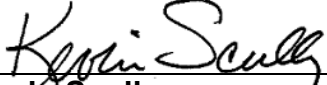
DECISION AND ORDER

Accordingly, the Department's decision is REVERSED.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

Initiate a determination of the Petitioner's eligibility for the Food Assistance Program (FAP) as of April 1, 2018, in accordance with policy.

KS/hb



Kevin Scully
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

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 Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS 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. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MAHS Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

DHHS

Randa Chenault
25620 W. 8 Mile Rd
Southfield, MI 48033

Oakland County (District 3), DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

[REDACTED]