



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR



Date Mailed: June 20, 2018
MAHS Docket No.: 18-004686
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 13, 2018, from Lansing, Michigan. Petitioner represented herself. The Department of Health and Human Services was represented by Laura Bensinger.

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 a Food Assistance Program (FAP) recipient as a group of one from January 1, 2018, through March 31, 2018. Exhibit A, p 38.
2. Petitioner's date of birth is September 11, 1972. Exhibit A, p 3.
3. Department records indicate that Petitioner reported that she cares for her 2-year-old grandson on December 7, 2017, as part of a review of her status as an able-bodied adult without dependents. Exhibit A, p 36.
4. On April 14, 2018, the Department received Petitioner's application for Food Assistance Program (FAP) benefits as a group of one living in Eaton County. Exhibit A, pp 1-30.

5. Petitioner reported on her April 14, 2018, application for assistance that she had not been employed. Exhibit A, p 7.
6. The Department credited Petitioner with Time Limited Food Assistance months for January of 2018, February of 2018, and March of 2018. Exhibit A, p 31.
7. On April 20, 2018, the Department denied Petitioner's April 14, 2018, application for Food Assistance Program (FAP) benefits. Exhibit A, pp 32-35.
8. On May 3, 2018, the Department received Petitioner's request for a hearing protesting the closure of her Food Assistance Program (FAP) benefits.

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 36-month period is a standardized period. The TLFA policy went into effect in Eaton County on January 1, 2018. All FAP individuals age 18 through 49 are TLFA unless deferred. Department of Health and Human Services Bridges Eligibility Manual (BEM) 320 (January 1, 2018), p 1.

For a FAP benefit month not to be countable, a TLFA individual must work at least 80 hours or participate 80 hours in an employment and training program. BEM 620, pp 2-3.

Individuals may be deferred from TLFA if there is a member of the FAP group that is under age 18, pregnant, physically or mentally unfit for employment, or deferred from employment-related activities per BEM 230B. BEM 620, 1-2.

A TLFA individual will be found to have meet the requirements if a month was found to be countable due to late hour entry, a hearing decision, or meeting the work

requirement. Verification of good cause is only required if the specialist considered the claim to be questionable. BEM 620, pp 3-5.

The Department will remove the countable month if the TLFA recipient had good cause for not meeting the requirements. A TLFA individual who worked or participate less than the required hours is considered to have met the work requirement if all the flowing conditions are met:

- The absence was due to circumstances beyond the individual's control.
- It was temporary.
- The individual has retained the job, MWA employment and training slot, workfare slot, or community service position.

BEM 620, pp 4-5.

A TLFA individual who has received three countable months can regain FAP eligibility for 80 hours of employment, by participating in community service, receiving a deferral from TLFA requirements, or deferral from employment-related activities per BEM 230B. BEM 620, pp 8-9.

Petitioner was a FAP recipient as a group of one from January 1, 2018, through March 31, 2018. Petitioner is an individual between 18 and 49 years living in Eaton County. Petitioner was not employed from January 1, 2018, through March 31, 2018, and was not a participant in an employment and training program. The Department closed Petitioner's FAP benefits as of April 1, 2018, after she received three countable TLFA months from January 1, 2018, through March 31, 2018.

Petitioner re-applied for FAP benefits on April 14, 2018. On April 20, 2018, the Department denied Petitioner's application because she had not met the requirements of BEM 620 to regain FAP eligibility.

Petitioner argued that she is eligible for a deferral from TLFA requirements because she cares for a child under the age of six.

The Department will defer one person who personally provides care for a child under age six, even if the child is not a member of the FAP group, nor resides with the caregiver. Department of Health and Human Services Bridges Eligibility Manual (BEM) 230B (January 1, 2018), p 4.

The record evidence supports a finding that the Department was aware that Petitioner cares for a child under age six. The Department failed to establish that Petitioner is not entitled to deferral from TLFA requirements due to a deferral from employment-related activities per BEM 230B.

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 and denied her April 14, 2018, application.


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 Food Assistance Program (FAP) benefits as of April 1, 2018, and delete the countable TFLA months from Petitioner's benefits file.

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

Laura Bensinger
1050 Independence Blvd
Charlotte, MI 48813

Eaton County, DHHS

BSC2 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

