



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

ORLENE HAWKS
DIRECTOR

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Date Mailed: March 11, 2019
MAHS Docket No.: 19-000967
Agency No.: ██████████
Petitioner: ██████████ ██████████

ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm

HEARING DECISION

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, 7 CFR 273.15, and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on March 6, 2019, from Lansing, Michigan. ██████████ ██████████ Petitioner, appeared and represented himself. Jessica Furlong, Eligibility Specialist, appeared with Ryan Clemons, Supervisor, on behalf of the Department. Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 34-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

ISSUE

Did the Department properly deny Petitioner's application for 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. On July 30, 2018, the Department issued a Notice of Time Limited Food Assistance (TLFA) Countable Month to Petitioner to notify him that he received his third month (July) in which he had not met the TLFA requirements.
2. On ██████████ ██████████ 2019, Petitioner applied for FAP benefits from the Department. In Petitioner's application, Petitioner reported that he had been working in November and December.

3. On January 22, 2019, the Department issued a Notice of Case Action which notified Petitioner that his application for FAP benefits was denied because he had used three countable months: February, June, and July 2018.
4. On January 29, 2019, Petitioner filed a hearing request to dispute the Department's decision.
5. On February 7, 2019, the Department issued a correction notice in which it rescinded its determination that Petitioner had received a month (June) in which he had not met the TLFA requirements.

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.

The Department's decision must be reversed based on its February 7, 2019, correction in which it rescinded its prior determination that Petitioner had a countable month for June 2018. The Department had notified Petitioner that he was ineligible because he had three countable months, including June 2018. Since Petitioner did not have a countable month for June 2018 (based on the Department's correction), Petitioner did not have three countable months as alleged by the Department in its January 22, 2019, denial. Therefore, the decision must be reversed.

Additionally, the Department did not present sufficient evidence to establish that it considered whether Petitioner had met the requirements to regain eligibility. A client shall regain eligibility by working 80 hours or more during any 30 consecutive days after having been denied eligibility for accumulating three countable months within 36 months. 7 CFR 273.24(d)(1). Petitioner asserted that he returned to work after he was denied for having three countable months, and Petitioner asserted that he did work more than 80 hours in a 30-day consecutive period. Petitioner reported on his application that he had been working, and the Department did not present any evidence to establish that it considered whether Petitioner had met the requirements to regain eligibility based on his work history.

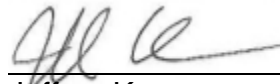
DECISION AND ORDER

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 its policies and the applicable law when it denied Petitioner's application for FAP benefits.

IT IS ORDERED the Department's decision is **REVERSED**.

IT IS FURTHER ORDERED that the Department shall initiate a review of Petitioner's application for FAP benefits.

JK/nr



Jeffrey Kemm
Administrative Law Judge
for Robert Gordon, 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

Sarina Baber
22 Center Street
Ypsilanti, MI
48198

Washtenaw County DHHS- via electronic
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BSC4- via electronic mail

M. Holden- via electronic mail

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Petitioner

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