



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

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Date Mailed: May 15, 2019
MOAHR Docket No.: 19-003667
Agency No.: 100024120
Petitioner: Kathryn Fyffe

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, telephone hearing was held on May 8, 2019, from Lansing, Michigan. Petitioner represented herself. The Department was represented by Amanda Mullen and Patricea Butler.

ISSUE

Did the Department of Health and Human Services (Department) properly disqualify a member of Petitioner's household from her Food Assistance Program (FAP) group?

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 January 8, 2019, the Department notified Petitioner that she was eligible for ongoing Food Assistance Program (FAP) benefits as a group of two. Exhibit A, pp 1-4.
2. On January 9, 2019, the Department notified Petitioner that a member of her household was subject to Time Limited Food Assistance (TLFA) work requirements. Exhibit A, pp 5-6.
3. On January 9, 2019, the Department notified Petitioner that a member of her household was subject to Time Limited Food Assistance (TLFA) work requirements. Exhibit A, pp 7-8.

4. On January 30, 2019, the Department notified Petitioner that a member of her household failed to meet the hourly participation requirement for January of 2019, and that this was the first countable month. Exhibit A, pp 9-10.
5. On February 7, 2019, the Department notified Petitioner that she remained eligible for Food Assistance Program (FAP) benefits as a group of two. Exhibit A, pp 11-14.
6. On February 8, 2019, the Department notified Petitioner that a member of her household was subject to Time Limited Food Assistance (TLFA) work requirements. Exhibit A, pp 15-16.
7. On February 8, 2019, the Department notified Petitioner that a member of her household was subject to Time Limited Food Assistance (TLFA) work requirements. Exhibit A, pp 17-18.
8. On February 27, 2019, the Department notified Petitioner that a member of her household failed to meet the hourly participation requirement for February of 2019, and that this was the second countable month. Exhibit A, pp 19-20.
9. On March 18, 2019, the Department notified Petitioner that a member of her household failed to meet the hourly participation requirement for March of 2019, and that this was the second countable month. Exhibit A, pp 21-22.
10. On March 25, 2019, the Department notified Petitioner that a member of her household was subject to Time Limited Food Assistance (TLFA) work requirements. Exhibit A, pp 23-24.
11. On March 25, 2019, the Department notified Petitioner that a member of her household was subject to Time Limited Food Assistance (TLFA) work requirements. Exhibit A, pp 25-26.
12. On March 29, 2019, the Department notified Petitioner that a member of her household failed to meet the hourly participation requirement for March of 2019, and that this was the third countable month. Exhibit A, pp 27-28.
13. On April 2, 2019, the Department notified Petitioner that she was eligible for ongoing Food Assistance Program (FAP) benefits but that the group size would be reduced to one because an individual in the household had used three Time Limited Food Assistance (TLFA) countable months. Exhibit A, pp 29-32.
14. On April 3, 2019, the Department received copies of the medical records for the member of Petitioner's household that failed to meet the Time Limited Food Assistance (TLFA) Work requirements. Exhibit A, pp 33-140.
15. On April 3, 2019, the Department received Petitioner's request for a hearing protesting the disqualification of a member of her household from the Food

Assistance Program (FAP) for failure to meet Time Limited Food Assistance (TLFA) work requirements.

16. On April 4, 2019, the Department sent Petitioner a Medical Needs (DHS-54A). Exhibit A, pp 141-142.
17. On April 6, 2019, the Department notified Petitioner that she remained eligible for ongoing Food Assistance Program (FAP) benefits as a group of one. Exhibit A, pp 143-146.

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.

All FAP individuals age 18 through 49 are subject to TLFA requirements unless they are deferred. Department of Health and Human Services Bridges Eligibility Manual (BEM) 620 (January 1, 2019), p 2.

A person may be deferred from TLFA requirements for one the following reasons:

- A member of a FAP group that includes a FAP group member under age 18, even if the individual under age 18 is disqualified or otherwise not eligible; see BEM 212.
- In any stage of pregnancy.
- Determined to be medically certified as physically or mentally unfit for employment:
- Participating in a Michigan Rehabilitation Services program.
- Obviously mentally or physically unfit for employment, as determined by the worker.
- Deferred from employment related activities per BEM 230B.
- A victim of domestic violence.
- Chronically homeless.

BEM 620, pp 2-3.

Clients may be temporarily deferred from employment related activities per BEM 230B based on age, care of a child, care of a disabled individual, disability, enrollment in a post-secondary education program, employment, SSI applicant, substance abuse treatment, or unemployment compensation applicant. Department of Health and Human Services Bridges Eligibility Manual (BEM) 230B (January 1, 2018), pp 1-6.

Petitioner was an ongoing FAP recipient as part of a group of two when the Department notified her that a member of her household was subject to TLFA requirements. The Department provided Petitioner with instructions on complying with TLFA requirements, but for three consecutive months nothing was submitted to the Department verifying compliance with TLFA requirements. Nothing was received to establish a deferral from TLFA requirements until after the noncompliant member of Petitioner's household had been disqualified from the FAP group, which resulted in a reduction of FAP benefits.


The Department presented substantial evidence that a member of Petitioner's household failed to meet TLFA requirements for three consecutive months and that the Department was acting in accordance with policy when it disqualified the noncompliant member of Petitioner's household from the FAP benefit group.

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 disqualified a member of Petitioner's household from her Food Assistance Program (FAP) benefit group for failure to meet Time Limited Food Assistance (TLFA) requirements.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.

KS/dh



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

DHHS

Carisa Drake
190 East Michigan
Battle Creek, MI 49016

Ingham County, DHHS

BSC2 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

B. Cabanaw via electronic mail

L. Brewer-Walraven via electronic mail

Petitioner

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