



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: May 17, 2019
MOAHR Docket No.: 19-003754
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Janice Spodarek

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 May 8, 2019, from Lansing, Michigan. Petitioner was unrepresented. The Department of Health and Human Services (Department) was represented by Juanita Munoz, Hearing Facilitator.

Department's Exhibit A.17 was admitted.

ISSUE

Did the Department properly close Petitioner's FAP case?

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 ██████████ 2018, Petitioner applied for FAP.
2. Petitioner was approved for FAP benefits beginning ██████████ 2018. Petitioner is not blind, disabled or aged. Petitioner's limit to collect FAP benefits without meeting work or other requirements is three months.
3. Petitioner's three months under the Time Limited Food Stamp Program (TLFP) began in January of 2019.
4. On December 6, 2018, the Department informed Petitioner of the TLFP policy. In conjunction with this information, the Department issued a December 6, 2018, FAP

Employment and Training Appointment Notice. Petitioner failed to appear. Exhibit A.

5. Petitioner failed to average 20 hours per week based on Petitioner's self-employment report. Exhibit A.6-9.
6. On March 29, 2019, the Department issued notice to Petitioner that effective January 1, 2019, Petitioner was subject to the TLFP work requirements which Petitioner failed to meet, and effective April 1, 2019, Petitioner's FAP case will close. Exhibit A.14.
7. On April 5, 2019 Petitioner filed a hearing request.

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.

In this case, applicable policy is found at BEM 620: Time Limited Food Assistance. Applicable to the case herein, this policy states:

FAP Only

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. Eligible individuals can receive three countable months of benefits within each of the following periods:

...Good cause is having a valid reason for failing to work at least 80 hours monthly (20 hours/week on average), failure to participate in an employment and training program at the MWA or failure to participate in workfare or self-initiated community service.

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 the job, MWA employment and training slot, workfare slot or community service position.

Document the good cause determination on the *FAP Time-Limited Good Cause* screen. Case comments detailing the reason for good cause are mandatory. The following are examples of good cause reasons:

- 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 (employer must verify).
- Household emergency.
- Temporarily unfit for work. BEM 620

Here, Petitioner was given the opportunity to participate with MWA to meet the exemption. Petitioner failed to show for his appointment. Petitioner argued that he had his own case but failed to verification that his participation meets the federal and state law requirements.

Nor did Petitioner present evidence of meeting the work requirement. Rather, Petitioner argued that the three-month limitation was unfair as he was self-employed, and it will take some time before he reaches a level of self-sufficiency.

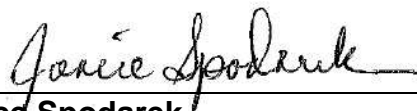
While no one disputes that self-employment activities may bring in less money when they start, such is not a listed exception to the work requirement rules under federal state law found in BEM 620. Michigan can be subject to significant financial penalties for failure to have verified work requirements in a welfare recipient's file pursuant to its agreement with the federal government under the FAP program. Petitioner has not met this requirement and thus, has not met his burden of proof.

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 closed Petitioner's FAP benefits effective April 1, 2019 under the time limited federal and state policy.

DECISION AND ORDER

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

JS/dh



Janice Spodarek
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

