



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: July 15, 2019
MOAHR Docket No.: 19-006200
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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 July 10, 2019, from Lansing, Michigan. Petitioner, [REDACTED] [REDACTED] appeared with his mother, [REDACTED] Eligibility Specialist, Sam Morgan, and Family Independence Manager, Territa Rivers-Jones, appeared for the Department of Health and Human Services (Department). Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 21-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

ISSUE

Did the Department properly terminate 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 FAP benefit recipient.
2. The Department determined that Petitioner was a time-limited recipient. The Department advised Petitioner that he was a time-limited recipient and that he was required to work, participate in training, or participate in community service in order to receive benefits for more than three months within a 36-month period.
3. Petitioner understood the Department's requirements.

4. On January 16, 2019, the Department issued a time limited food assistance notice to Petitioner to notify him of his requirements.
5. On February 27, 2019, the Department issued a notice of time limited food assistance countable month. The notice advised Petitioner that he had failed to complete his requirements for the month of February. The notice instructed Petitioner that the work requirements may not apply if he was responsible for the care of an incapacitated individual; the notice advised Petitioner to contact the Department right away if he thought the work requirements did not apply to him.
6. On March 29, 2019, the Department issued a notice of time limited food assistance countable month. The notice advised Petitioner that he had failed to complete his requirements for the month of March. The notice further advised that this was Petitioner's second month he had failed to complete his requirements. The notice instructed Petitioner that the work requirements may not apply if he was responsible for the care of an incapacitated individual; the notice advised Petitioner to contact the Department right away if he thought the work requirements did not apply to him.
7. On April 29, 2019, the Department issued a notice of time limited food assistance countable month. The notice advised Petitioner that he had failed to complete his requirements for the month of April. The notice further advised that this was Petitioner's third month he had failed to complete his requirements. The notice instructed Petitioner that the work requirements may not apply if he was responsible for the care of an incapacitated individual; the notice advised Petitioner to contact the Department right away if he thought the work requirements did not apply to him. The Department issued a separate notice of case action which notified Petitioner that his FAP benefits were going to be closed effective May 1, 2019, because he was a time-limited recipient and had used three countable months.
8. On May 7, 2019, Petitioner requested an exemption from the time-limited requirements. In support of his request, Petitioner alleged that he was caring for his mother who was incapacitated.
9. The Department did not address Petitioner's request because it was not submitted until after the Department closed his FAP benefits.
10. On June 7, 2019, Petitioner requested a hearing to dispute the Department's decision to close his 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.

All FAP recipients aged 18 through 49 are time-limited food assistance (TLFA) recipients unless deferred. BEM 620 (January 1, 2019), p. 2. A TLFA individual must meet specific work requirements to receive FAP benefits. *Id.* at 1. Failure to do so limits the individual's FAP benefits to three months within a 36-month period. *Id.* In order to meet the work requirements, an individual must perform one of the following: (a) work at least 80 hours monthly, (b) participate in 80 hours of employment training administered by Michigan Works, or (c) engage in 80 hours of community service for a non-profit organization. *Id.* at 4. If an individual does not meet the work requirements, the individual is assessed a countable month unless the individual had good cause. *Id.* at 7. An individual may only receive FAP benefits for three countable months within a 36-month period. *Id.* at 9. Once an individual has received three countable months within a 36-month period, he cannot receive FAP benefits again within the 36-month period until he has regained eligibility. *Id.* at 9.

In this case, the Department determined that Petitioner was TLFA. The Department sent Petitioner three separate TLFA notices to advise him when he accumulated a countable month. Each notice instructed Petitioner to contact the Department if he thought the work requirements did not apply to him. Petitioner did not contact the Department until after the Department closed his case, and then Petitioner asserted that the work requirements did not apply to him.

The Department acted in accordance with its policies when it closed Petitioner's FAP benefits. Petitioner did not present any evidence to establish that he was deferred from TLFA, that he met the work requirements, or that he had good cause for not meeting the work requirements. Since Petitioner was TLFA, and since Petitioner accumulated three countable months within a 36-month period without good cause, the Department was required to close his FAP benefits.

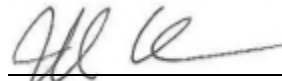
Petitioner's assertion that the work requirements did not apply to him was too late. The Department advised Petitioner to contact the Department right away if he thought that the work requirements did not apply to him. The Department included this information in each notice it sent to Petitioner when he accumulated a countable month. Petitioner waited until after his FAP benefits were closed before he contacted the Department to assert that he thought the work requirements did not apply to him.

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 act in accordance with its policies and the applicable law when it terminated Petitioner's FAP benefits effective May 1, 2019.

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

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

DHHS

Dora Allen
14061 Lappin
Detroit, MI
48205

Wayne 76 County DHHS- via electronic
mail

BSC4- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

Petitioner

[REDACTED]
[REDACTED]
[REDACTED], MI
[REDACTED]