



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: August 13, 2019
MOAHR Docket No.: 19-007337
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 August 8, 2019, from ██████████ Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Eileen Kott, manager, and April Nemec, specialist.

ISSUE

The issue is whether MDHHS properly terminated Petitioner's Food Assistance Program (FAP) eligibility.

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 March 4, 2019, Petitioner submitted to MDHHS a Redetermination form concerning FAP benefits. Petitioner reported that he "decided to allow my girlfriend to work" and that he would provide babysitting services for her kids; Petitioner provided no additional information or documentation about babysitting. Petitioner reported \$0 income. Exhibit A, pp. 21-28.
2. As of April 2019, Petitioner was an ongoing recipient of FAP benefits.
3. On April 29, 2019, MDHHS mailed Petitioner notice that Petitioner did not meet FAP-participation requirements in April 2019. Exhibit A, pp. 7-8.
4. On May 30, 2019, MDHHS mailed Petitioner notice that Petitioner did not meet FAP-participation requirements in May 2019. Exhibit A, pp. 9-10.

5. On June 17, 2019, MDHHS mailed Petitioner notice that Petitioner had to meet TLFA requirements for June 2019 or his FAP eligibility would end. Exhibit A, pp. 1-2.
6. On June 28, 2019, MDHHS mailed Petitioner notice that Petitioner did not meet FAP-participation requirements in June 2019. Exhibit A, pp. 13-14.
7. On June 28, 2019, MDHHS terminated Petitioner's FAP eligibility beginning July 2019 due to Petitioner failing to meet Time-Limited Food Assistance (TLFA) requirements after using three countable months.
8. On July 9, 2019, Petitioner requested a hearing to dispute the termination of FAP benefits. Exhibit A, pp. 3-4.
9. On July 16, 2019, Petitioner submitted to MDHHS a copy of a woman's expired driver's license. The document included an unsigned statement that Petitioner babysits her children.

CONCLUSIONS OF LAW

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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute a termination of FAP benefits. A Notice of Case Action dated July 9, 2019, stated that MDHHS terminated Petitioner's FAP eligibility beginning July 2019 due to not meeting TLFA requirements after using three countable months.

A TLFA individual must meet specific work requirements to receive benefits. BAM 620 (January 2019), p. 1. Failure to do so limits the individual's FAP eligibility to three months within a 36-month period. *Id.* The current 36-month period runs from January 1, 2017 through December 31, 2019. *Id.* TLFA individuals who meet all other FAP eligibility criteria are eligible for three countable months of FAP benefits during a 36-month period. *Id.*

All FAP individuals aged 18 through 49 are subject to TLFA requirements unless deferred. *Id.*, p. 2. Deferral reasons include the following:

- Being a member of a FAP group including a child under age 18
- Pregnancy
- Unfit for employment based on medical certification
- A victim of domestic violence
- Chronically homeless

- Deferred from employment activities under BEM 230B.
Id. pp. 2-3.

There was no evidence that Petitioner was deferred from TLFA requirements. Thus, Petitioner is subject to TLFA requirements.

For a FAP benefit month not to be countable, a TLFA individual must perform one of the following:

- Work at least 80 hours monthly (20 hours/week on average). Work includes:
 - Work in exchange for money, including self-employment.
 - Work in exchange for goods or services (in-kind).
- Participate 80 hours monthly (20 hours/week on average) in an employment and training program administered by the local Michigan Works! Agency (MWA) if available in the county.
- Individuals in an MWA employment and training component cannot be required to participate more than 30 hours per week. The MWA may permit a participant to substitute hours of education to meet the 80-hour requirement.
- Combine work hours and MWA work hours, except workfare or self-initiated community service, that total an average of 80 hours per month.
- Participate in MWA-assigned workfare. The number of hours worked must at least equal the FAP benefit divided by minimum wage (\$9.25/hr.), as determined by Bridges.
- Engage in self-initiated community service activities for a non-profit organization. The number of hours worked must equal the FAP benefit amount divided by minimum wage (\$9.25/hr.), as determined by Bridges.
Id., p. 4.

MDHHS alleged that Petitioner failed to meet TLFA requirements from April 2019 through June 2019. MDHHS presented documentation mailed to Petitioner which informed Petitioner that he did not provide proof of sufficient activities for April 2019, May 2019, and June 2019. MDHHS also mailed Petitioner a warning notice that June 2019 was his last countable month and that failure to submit proof of activities would result in FAP closure. The evidence sufficiently established that MDHHS met all procedural requirements in terminating Petitioner's FAP eligibility.

Petitioner testified that he performed odd jobs resulting in \$350 in income. There was no evidence that Petitioner reported any employment to MDHHS during or reasonably after the TLFA countable months. Without such a reporting, MDHHS cannot be faulted for counting April 2019 through June 2019 as countable months for purposes of TLFA

On July 16, 2019, Petitioner submitted to MDHHS a copy of an expired driver's license with an unsigned statement, presumably by the license's owner, that Petitioner babysat her children. Petitioner testified that he received an occasional \$20 for his services. Petitioner's documentation was questionable for multiple reasons. First, MDHHS credibly testified that during a prehearing conference, Petitioner reported the person pictured was his cousin's girlfriend; during the hearing, Petitioner claimed the pictured

woman was his girlfriend. Also, the statement on the document was unsigned, undated, and did not include a phone number. Given the evidence, Petitioner's claim of employment during one or more countable months was not credible.

Petitioner testified that he spoke with his landlord who agreed that Petitioner could perform snow removal, lawn mowing, and other odd jobs in exchange for rent. Petitioner's testimony may allow him to regain FAP eligibility but has no impact on whether he met TLFA activity requirements from April 2019 to June 2019.

Given the evidence, Petitioner did not meet TLFA work requirements from April 2019 to June 2019. Thus, MDHHS properly counted each month as a countable month in terms of Petitioner not meeting TLFA requirements. With three countable months, MDHHS properly terminated Petitioner's FAP eligibility beginning July 2019.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly terminated Petitioner's FAP eligibility beginning July 2019. The actions taken by MDHHS are **AFFIRMED**.

CG/jaf



Christian Gardocki

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

Via Electronic Mail
DHHS

Dora Allen
MDHHS-Wayne-76-Hearings

BSC4
M Holden
D Sweeney

Via First Class Mail
Petitioner

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