



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: August 27, 2019
MOAHR Docket No.: 19-007949
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: John Markey

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 22, 2019, from Detroit, Michigan. Petitioner appeared and represented himself. The Department of Health and Human Services (Department) was represented by Jeanette Richie, Eligibility Specialist, and Olivette Gordon, Family Independence Manager.

ISSUE

Did the Department properly deny Petitioner's [REDACTED] 2019 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 [REDACTED], 2019, Petitioner submitted to the Department an application for FAP benefits. Prior to applying, Petitioner had been incarcerated for 16 years. During that time and before, Petitioner had not received FAP benefits.
2. On July 19, 2019, the Department issued to Petitioner a Notice of Case Action informing Petitioner that his application was denied. The Department's stated reason for denying the application was that Petitioner failed to satisfy the requirements under the Time Limited Food Assistance (TLFA) rules.

3. The sanction for allegedly failing to satisfy the TLFA requirements was imposed in 1995 and continued to be applied to Petitioner's case.
4. On [REDACTED] 2019, Petitioner submitted to the Department a request for hearing objecting to the Department's action.

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, Petitioner objected to the July 19, 2019 denial of his [REDACTED], 2019 FAP application. The Notice of Case Action informing Petitioner of the denial stated that Petitioner's application was denied because Petitioner failed to satisfy the TLFA requirements. The document explained to Petitioner that he had been previously notified of the disqualification sanction and informed Petitioner that in order to have the sanction lifted, Petitioner needed to fulfill the requirements for at least one month. Notably, Petitioner was incarcerated for the 16 years before filing the [REDACTED] 2019 application and had never received FAP benefits from the Department.

All FAP individuals age 18 through 49 are TLFA unless deferred. BEM 320 (January 2019), p. 2. A TLFA individual must meet specific work requirements to receive benefits. BEM 620, p. 1. Failure to do so limits the individual's FAP benefits eligibility to three months within a 36-month period. BEM 620, p. 1. TLFA individuals who meet all other FAP eligibility criteria are eligible for three countable months of FAP benefits during a 36-month period; eligible individuals can receive three countable months of benefits within each 36-month period. BEM 620, p. 1. For a FAP benefit month not to be countable, a TLFA individual must work at least 80 hours or participate 80 hours in an employment and training program administered by the local MWA in the county. BEM 620, p. 4. Work includes work in exchange for money, including self-employment, and work in exchange for goods or services (in-kind). BEM 620, p. 4. A TLFA individual who has received three countable months can regain FAP eligibility by, within any 3-day period after the last benefit month but prior to application, fulfilling the 80-hour requirement, by becoming deferred, or by engaging in self-initiated community service. BEM 620, pp. 9-10.

Petitioner's hearing request, in relevant part, stated:

I applied for food assistance on [REDACTED]-19. I was denied on 7-19-19 due to TLFA requirements. From my understanding, you can get 3 months of food assistance in a 3 year period and after that you must be working or in a program. I have been incarcerated for the last 16 years. Prior to incarceration, I never received food assistance before. I should be eligible for the 3 months of assistance.

Petitioner's understanding is correct with respect to the TLFA requirements. As Petitioner had not received FAP benefits at any time during at least the previous 16 years, the Department's finding that Petitioner was subject to a TLFA disqualification upon application was obviously incorrect. Even if Petitioner failed to make any effort whatsoever to meet the requirements, he was still entitled to receive FAP benefits until he used up his three countable months, so long as he was otherwise eligible.

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 Department policy when it denied Petitioner's [REDACTED] 2019 application for FAP benefits.

DECISION AND ORDER

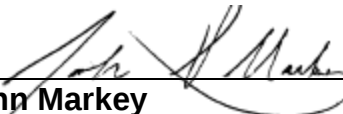
Accordingly, the Department's decision is **REVERSED**.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Remove the erroneously applied 1995 TLFA sanction from Petitioner's case;
2. Reprocess Petitioner's [REDACTED], 2019 FAP application;
3. If any eligibility-related factors remain unclear, inconsistent, contradictor, or incomplete, follow Department policy in obtaining verifications;
4. Determine Petitioner's eligibility for FAP benefits from the date of application, ongoing;
5. If Petitioner is found to be eligible for FAP benefits, issue them to Petitioner in accordance with Department policy and ensure that any necessary supplements are promptly issued; and

6. Notify Petitioner in writing of its decisions.

JM/cg


John Markey
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 Email:

MDHHS-Wayne-57-Hearings
M. Holden
D. Sweeney
BSC4- Hearing Decisions
MOAHR

Petitioner – Via First-Class Mail:

[REDACTED]
[REDACTED]
[REDACTED]