



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: September 23, 2019
MOAHR Docket No.: 19-008933
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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 September 18, 2019, from [REDACTED] Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Valarie Foley, hearing facilitator.

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. As of March 2019, Petitioner was an ongoing recipient of FAP benefits.
2. On March 4, 2019, MDHHS mailed Petitioner a Time Limited Food Assistance Month Redetermination Notice informing Petitioner that she is subject to the Time-Limited Food Assistance (TLFA) requirements. Exhibit A, pp. 6-7.
3. On April 1, 2019, MDHHS mailed Petitioner a FAP Employment and Training Appointment Notice informing Petitioner of an optional appointment at a Michigan Works! Agency (MWA) for the purpose of attending MWA to meet TLFA requirements. Exhibit A, pp. 8-9.

4. On April 1, 2019, MDHHS mailed Petitioner a Time Limited Food Assistance Notice stating that she was subject to TLFA requirements beginning May 2019. Exhibit A, pp. 10-11.
5. On May 30, 2019, MDHHS mailed Petitioner a notice that she did not meet FAP-participation requirements in May 2019. Exhibit A, pp. 12-13.
6. On June 28, 2019, MDHHS mailed Petitioner notice that she did not meet FAP-participation requirements in June 2019. Exhibit A, pp. 14-15.
7. On July 18, 2019, MDHHS mailed Petitioner notice that she had to meet TLFA requirements for July 2019 or FAP eligibility would end. Exhibit A, pp. 16-17.
8. On July 30, 2019, MDHHS mailed Petitioner notice that Petitioner did not meet FAP-participation requirements in July 2019. Exhibit A, pp. 18-19.
9. On July 30, 2019, MDHHS terminated Petitioner's FAP eligibility beginning August 2019 due to Petitioner failing to meet Time-Limited Food Assistance (TLFA) requirements after using three countable months.
10. On July 30, 2019, Petitioner requested a hearing to dispute the termination of FAP benefits. Exhibit A, pp. 3-4.
11. As of July 30, 2019, Petitioner failed to submit to MDHHS proof of meeting TLFA requirements.

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 30, 2019, stated that MDHHS terminated Petitioner's FAP eligibility beginning August 2019 due to not meeting TLFA requirements.

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.* A countable month is a calendar month in which a full FAP benefit is posted to an EBT account and the recipient does not meet a TLFA deferral or work requirement, without good cause. *Id.*, p. 7.

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, it is presumed that 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 May 2019 through July 2019. Documentation mailed to Petitioner informed her that she did not provide proof to MDHHS of sufficient activities for May 2019, June 2019, and July 2019. MDHHS also mailed Petitioner a warning notice that July 2019 was the last countable month before FAP termination. MDHHS testimony also indicated, without rebuttal, that

Petitioner did not submit any proof of meeting TLFA activities from May 2019 through July 2019.

Petitioner testified that she did not receive correspondence from MDHHS dated April 1, 2019. Petitioner also testified that she called MDHHS on July 28, 2019, to explain that she did not receive the correspondence dated April 1, 2019. Petitioner's testimony implied an argument that she was unaware of her TLFA requirements. Notably, the TLFA notice mailed to Petitioner on April 1, 2019, listed Petitioner's proper mailing address; thus, MDHHS did not misaddress the mailing. Also, MDHHS included a list of correspondence mailed to Petitioner; both documents Petitioner claimed to have not received were listed as mailed on April 1, 2019. Also, if Petitioner did not receive the documents dated April 1, 2019, Petitioner did not explain why she waited until July 28, 2019, to raise concerns of TLFA eligibility. Presumably, if Petitioner had concerns of TLFA eligibility, she would have called MDHHS after receiving notices sent to her on March 4, 2019, May 30, 2019, and June 28, 2019. The evidence supported finding that MDHHS mailed the notices dated April 1, 2019, to Petitioner and that Petitioner received the notices.

Petitioner also testified that she attended MWA since 2016; her testimony implied meeting TLFA work requirements. To support her testimony, Petitioner presented an email from an MWA staff person stating that she enrolled in an MWA program on November 2, 2016. Exhibit 1. Petitioner's documentation provided no insight into whether Petitioner attended MWA from May 2019 through July 2019. Petitioner testified she regularly attends MWA job fairs and appointments but provided no proof that she did so during countable months. There was also no evidence that Petitioner submitted proof of meeting TLFA requirements to MDHHS.

Given the evidence, Petitioner did not meet TLFA work requirements from May 2019 to July 2019. Thus, each month was a countable month in not meeting TLFA requirements. With three countable months, MDHHS properly terminated Petitioner's FAP eligibility beginning August 2019.¹

¹ Petitioner may have an interest in regaining FAP eligibility. An individual who has received three countable months of FAP benefits can regain FAP eligibility within the 36-month period by meeting one of the following within any 30-day period after the last benefit month but prior to application:

- 80 hours of employment
- Self-initiated community service for a number of hours to be set by MDHHS
- Becoming TLFA-deferred. *Id.*, p. 10.

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 August 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

DHHS
(via electronic mail)

Susan Noel
MDHHS-Wayne-19-Hearings
BSC4
M Holden
D Sweeney

Petitioner
(via first class mail)

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