



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: October 1, 2019  
MOAHR Docket No.: 19-009428  
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 September 26, 2019, from Lansing, Michigan. Petitioner, [REDACTED] [REDACTED] appeared and represented herself. Respondent, Department of Health and Human Services (Department), had Shanita Gaines, Assistance Payments Worker, appear as its representative. Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 29-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. Petitioner's FAP benefit amount was \$ [REDACTED] per month.
2. The Department determined that Petitioner was a time-limited recipient. The Department advised Petitioner that she was a time-limited recipient and that she 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. On April 30, 2019, the Department issued a time limited food assistance notice to Petitioner to notify her of her requirements.
4. On May 30, 2019, the Department issued a notice of time limited food assistance countable month. The notice advised Petitioner that she had failed to complete her requirements for the month of May.
5. Petitioner did not dispute the notice.
6. On June 28, 2019, the Department issued a notice of time limited food assistance countable month. The notice advised Petitioner that she had failed to complete her requirements for the month of June. The notice further advised that this was Petitioner's second month she had failed to complete her requirements.
7. Petitioner did not dispute the notice.
8. On July 18, 2019, the Department issued a time limited food assistance notice which advised Petitioner that she had used two out of three of her months. The notice stated, "If you do not meet the time limited food assistance participation requirements this month, you will use your last countable month and your food assistance benefits will close."
9. On July 30, 2019, the Department issued a notice of time limited food assistance countable month. The notice advised Petitioner that she had failed to complete her requirements for the month of July. The notice further advised that this was Petitioner's third month she had failed to complete her requirements. The Department issued a separate notice of case action which notified Petitioner that her FAP benefits were going to be closed effective August 1, 2019, because she was a time-limited recipient and had used three countable months.
10. On July 30, 2019, Petitioner submitted documentation to show that she volunteered 67 hours during the month of July.
11. On [REDACTED] [REDACTED] [REDACTED] Petitioner requested a hearing to dispute the Department's decision to close her 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) 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 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 community service for a non-profit organization for a number of hours equal to the monthly FAP benefit divided by the hourly minimum wage rate. *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, she cannot receive FAP benefits again within the 36-month period until she 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 her when she accumulated a countable month.

On July 30, 2019, the Department sent Petitioner a notice to advise her that she had accumulated her third countable month for July. That same day, Petitioner provided proof that she had volunteered 67 hours at a non-profit during the month of July. After Petitioner provided proof to the Department, the Department did not do anything to correct its notice of third countable month. The Department did not act in accordance with its policies and the applicable law because it failed to send a correction to rescind its notice of third countable month when it should have.

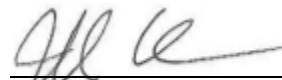
The Department should have rescinded its notice of third countable month after Petitioner submitted proof of her volunteer hours because Petitioner's proof established that she volunteered more than the number of hours she was required to volunteer. Petitioner was required to volunteer at least the number of hours equal to her FAP benefit amount divided by the hourly minimum wage rate. Since Petitioner's FAP benefit was \$ [REDACTED] per month and since the hourly minimum wage rate was \$ [REDACTED] Petitioner was only required to volunteer 28 hours per month. Petitioner volunteered more than 28, so she met the requirement for July. Therefore, July should not have been considered a countable month.

**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 not act in accordance with its policies and the applicable law when it terminated Petitioner's FAP benefits.

IT IS ORDERED the Department's decision is **REVERSED**. The Department shall begin to implement this decision within 10 days.

JK/nr



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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**

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**Petitioner**

[REDACTED]  
[REDACTED]  
[REDACTED], MI  
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