



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], MI [REDACTED]

Date Mailed: October 30, 2019
MOAHR Docket No.: 19-010465
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on October 24, 2019, from Lansing, Michigan. Petitioner represented herself. The Department of Health and Human Services was represented by Markita Mobley and Georgetta Cronelius.

ISSUE

Did the Department of Health and Human Services (Department) properly disqualify Petitioner from the Food Assistance Program (FAP)?

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 May 30, 2019, the Department notified Petitioner that she had received three countable Time Limited Food Assistance (TLFA) months. Exhibit A, pp 6-7.
2. The Department received verification that Petitioner had completed 10 hours of community service in August of 2019. Exhibit A, p 8.
3. The Department received verification that Petitioner had completed 35 hours of community service in 2019. Exhibit A, p 9.
4. On June 6, 2019, the Department notified Petitioner that she disqualified from the Food Assistance Program (FAP), but that her child would remain eligible for ongoing benefits as a group of one. Exhibit A, pp 3-5.

5. On [REDACTED] [REDACTED] [REDACTED] the Department received Petitioner's request for a hearing protesting her disqualification from the Food Assistance Program (FAP). Exhibit A, pp 1-2.
6. Petitioner presented a Community Service Activity Report (DHS-1997) showing 41 hours of unpaid work during the month of August of 2019. Petitioner Exhibit 1.

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.

A Time-Limited Food Assistance (TLFA) individual must meet specific work requirements to receive benefits. Failure to do so limits the individual's Food Assistance Program (FAP) eligibility to three months within a 36-month period. TLFA individuals who meet all other FAP eligibility criteria are eligible for three countable months of FAP benefits during a 36-month period. The 36-month period is a standardized period. Effective October 1, 2018, all counties will be subject to TLFA policy, for both applicants and active cases. All FAP individuals age 18 through 49 are subject to TLFA unless deferred. Department of Health and Human Services Bridges Eligibility Manual (BEM) 620 (January 1, 2018), pp 1-2.

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. BEM 620, p 4.

Individuals may be deferred from TLFA if there is a member of the FAP group that is under age 18, pregnant, physically or mentally unfit for employment, or deferred from employment-related activities per BEM 230B. BEM 620, 2-3.

A TLFA individual will be found to have meet the requirements if a month was found to be countable due to late hour entry, a hearing decision, or meeting the work requirement. Verification of good cause is only required if the specialist considered the claim to be questionable. BEM 620, pp 3-5.

The Department will remove the countable month if the TLFA recipient had good cause for not meeting the requirements. A TLFA individual who worked or participate less

than the required hours is considered to have met the work requirement if all the following conditions are met:

- The absence was due to circumstances beyond the individual's control.
- It was temporary.
- The individual has retained the job, MWA employment and training slot, workfare slot, or community service position.

BEM 620, pp 5-6.

A TLFA individual who has received three countable months can regain FAP eligibility for 80 hours of employment, by participating in community service, receiving a deferral from TLFA requirements, or deferral from employment-related activities per BEM 230B. BEM 620, pp 9-10.

A disqualified person is one who is ineligible for FAP because the person refuses or fails to cooperate in meeting an eligibility factor, including TLFA requirements. Department of Health and Human Services Bridges Eligibility Manual (BEM) 212 (July 1, 2019), pp 8-9. Other FAP group members may remain eligible even if one TLFA group member uses three countable months and is no longer eligible. BEM 620, p 8.

Petitioner was an ongoing FAP recipient when on May 30, 2019, the Department notified her that she had received three countable months not meeting TLFA requirements. On June 6, 2019, the Department notified Petitioner that she was disqualified from FAP, but that her child would remain eligible for FAP benefits.

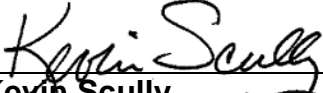
Petitioner presented evidence of participation in community service hours less than 80 hours per month, and no evidence of her son's participation in community service. Petitioner's documents do not establish that she had complied with TLFA requirements before June 1, 2019. Whether Petitioner is eligible to regain FAP eligibility after receiving three countable months is a new issue to be decided by the Department after Petitioner's disqualification.

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 acted in accordance with Department policy when it disqualified Petitioner from the Food Assistance Program (FAP) on June 6, 2019.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.

KS/hb



Kevin Scully
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

Keisha Koger-Roper
12140 Joseph Campau
Hamtramck, MI 48212

Wayne County (District 55), DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

