



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: January 6, 2020  
MOAHR Docket No.: 19-012714  
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 January 2, 2020, from Lansing, Michigan. Petitioner's authorized representative, [REDACTED], appeared on Petitioner's behalf. Respondent, Department of Health and Human Services (Department), had Natalie McLaurin, Hearing Facilitator, appear on its behalf. Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 32-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

### **ISSUE**

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefits for accumulating three countable months?

### **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.
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 September 3, 2019, the Department issued a time limited food assistance notice to Petitioner to notify her of her requirements.

4. On September 27, 2019, the Department issued another time limited food assistance notice to Petitioner to notify her of her requirements.
5. On September 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 September. The notice advised Petitioner to contact the Department right away if she thought the work requirements did not apply to her.
6. Petitioner did not contact the Department in response to the notice.
7. On October 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 October. The notice further advised that this was Petitioner's second month she had failed to complete her requirements. The notice advised Petitioner to contact the Department right away if she thought the work requirements did not apply to her.
8. Petitioner did not contact the Department in response to the notice.
9. On November 14, 2019, the Department issued a notice to Petitioner to notify her that she had used two of her three countable months. The Department notified Petitioner that her FAP would close if she did not meet her requirements in November.
10. On November 25, 2019, Petitioner requested a hearing to dispute her countable months.
11. On November 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 November. The notice further advised that this was Petitioner's third month she had failed to complete her requirements. The notice advised Petitioner to contact the Department right away if she thought the work requirements did not apply to her.

### **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 (November 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 80 hours of community service for a non-profit organization. *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. 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, Petitioner asserted (a) that she had good cause for not meeting her TLFA requirements because she was disabled and (b) that she met her TLFA requirements in October and November. Petitioner did not present sufficient evidence to establish either that she had good cause, or that she met her TLFA requirements in October and November. Petitioner did not present any evidence that she was unfit for employment; to the contrary, Petitioner's representative testified that Petitioner had been employed since at least October. Petitioner also did not present any evidence to establish that she provided the Department with proof of the number of hours she worked, volunteered, or trained for any of her countable months. Thus, based on the evidence presented, I must find that the Department properly determined Petitioner's countable months.

### **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 act in accordance with its policies and the applicable law when it determined that Petitioner had countable months in September 2019 and October 2019.

IT IS ORDERED the Department's decision is AFFIRMED.

JK/ml



---

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**

Kathleen Verdoni  
411 East Genesee  
P.O. Box 5070  
Saginaw, MI 48607

Saginaw County DHHS – Via Electronic  
Mail

BSC2 – Via Electronic Mail

M. Holden – Via Electronic Mail

D. Sweeney – Via Electronic Mail

**Authorized Hearing Rep.**

[REDACTED] – Via First Class Mail  
[REDACTED]  
MI [REDACTED]

**Petitioner**

[REDACTED] – Via First Class Mail  
[REDACTED]  
MI [REDACTED]