



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: February 28, 2020
MOAHR Docket No.: 20-000627
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 February 27, 2020, from Lansing, Michigan. Petitioner, [REDACTED], appeared and represented himself. Respondent, Department of Health and Human Services (Department), had Engrid Daniels, Program Manager, appear as its representative. Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 7-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

ISSUES

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefits effective January 1, 2020, for an intentional program violation disqualification?

Did the Department properly deny Petitioner's [REDACTED] 2020, application for FAP for an intentional program violation disqualification?

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. In docket 19-007208 of the Michigan Office of Administrative Hearings and Rules, Petitioner was found to have committed an intentional program violation and subject to a 12-month disqualification.

3. The Department initiated closure of Petitioner's FAP benefits due to his disqualification.
4. On December 4, 2019, the Department mailed a notice of case action to Petitioner to notify him that his FAP benefits were going to be closed effective January 1, 2020, because he had an intentional program violation disqualification. The Department also mailed an intentional program violation client notice to Petitioner to notify him that he was disqualified for 12 months from January 2020 through December 2020.
5. On [REDACTED] 2020, Petitioner applied for FAP benefits.
6. On January 16, 2020, the Department mailed a notice of case action to Petitioner to notify him that his application for FAP benefits was denied because he had an intentional program violation disqualification.
7. On January 22, 2020, Petitioner requested a hearing to dispute the closure of his FAP benefits and the denial of his application for 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.

In this case, Petitioner is disputing the closure of his FAP benefits and the denial of his subsequent application for FAP benefits. The Department took both actions (the closure and denial), because Petitioner had been found to be subject to an intentional program violation disqualification. An individual subject to an intentional program violation disqualification is ineligible to participate in FAP for the duration of the disqualification. 7 CFR 273.16(b). In this case, Petitioner was disqualified for 12 months beginning January 1, 2020. Since Petitioner was disqualified, and since Petitioner was the only member of his group, the Department properly closed his FAP benefits and denied his application. Petitioner cannot participate in FAP for the duration of his 12-month disqualification.

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 (a) closed Petitioner's FAP benefits effective January 1, 2020 and (b) denied Petitioner's [REDACTED] 2020, application for FAP benefits.

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

Wayne (District 49) County DHHS – Via
Electronic Mail

M. Holden – Via Electronic Mail

D. Sweeney – Via Electronic Mail

Petitioner

[REDACTED] – Via First Class Mail

[REDACTED]
MI [REDACTED]