



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

[REDACTED]

Date Mailed: May 24, 2021
MOAHR Docket No.: 21-001913
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm

HEARING DECISION

On April 7, 2021, Petitioner, Fred Cunningham, requested a hearing to dispute the beginning date of his Food Assistance Program (FAP) benefits. As a result, a hearing was scheduled to be held on May 19, 2021, pursuant to MCL 400.9, 7 CFR 273.15, and Mich Admin Code, R 792.11002. Petitioner appeared at the hearing and represented himself. Respondent, Department of Health and Human Services (Department), had Abby Sutter, Assistance Payments Supervisor, appear as its representative. Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. An 11-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

ISSUE

Whether the Department properly determined the beginning date of Petitioner's FAP benefits when it determined he was eligible for FAP benefits beginning February 3, 2021?

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 has two or more felony drug convictions.
2. Petitioner had been found ineligible for FAP benefits because the law prohibited individuals with two or more felony drug convictions from being eligible to receive FAP benefits.

3. On January 4, 2021, a new law was signed that rescinded the law that had prohibited individuals with two or more felony drug convictions from being eligible to receive FAP benefits. MCL 400.14m.
4. The change was broadcast to the public through the media.
5. Petitioner became aware of the change when speaking with someone at a Goodwill.
6. On [REDACTED], 2021, Petitioner applied for FAP benefits.
7. The Department found Petitioner eligible for FAP benefits, effective February 3, 2021.
8. Petitioner requested a hearing because he believes that he should be eligible for FAP benefits effective the date the law changed.

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 beginning date of his FAP benefits. Specifically, Petitioner is arguing that his FAP benefits should have been effective as of the date the law changed that made him eligible for benefits. When an individual applies for FAP benefits and the Department determines that the individual is eligible, FAP benefits are effective the date of application. 7 CFR 273.10(a)(1)(ii). Since the Department found Petitioner eligible as of the date of his application, the Department acted properly.

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 acted in accordance with its policies and the applicable law when it determined the beginning date of Petitioner's FAP benefits.

IT IS ORDERED, the Department's decision is **AFFIRMED**.

JK/cc



Jeffrey Kemm
Administrative Law Judge
for Elizabeth Hertel, 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

Via Email:

MDHHS-Kent-Hearings
BSC2-HearingDecisions
D. Sweeney
M. Holden
MOAHR

Petitioner- Via USPS:

