



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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Date Mailed: September 14, 2022
MOAHR Docket No.: 22-001995
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun

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; 42 CFR 438.400 to 438.424; 45 CFR 99.1 to 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on September 8, 2022, from Detroit, Michigan. Petitioner appeared for the hearing and represented himself. The Department of Health and Human Services (Department) was represented by Corlette Brown, Hearing Facilitator and Alonda Arrington, Eligibility Specialist.

ISSUE

Did the Department properly deny Petitioner's application for 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 previously a recipient of FAP benefits.
2. On December 9, 2021, an administrative hearing was held before Administrative Law Judge (ALJ) Christian Gardocki regarding an alleged Intentional Program Violation (IPV) committed by Petitioner. ALJ Gardocki issued a Hearing Decision to Establish Intentional Program Violation (Hearing Decision) concluding that Petitioner committed an IPV of the FAP and ordered that Petitioner be disqualified from the FAP for a period of 12 months. (See MOAHR Docket No. 21-003788; Hearing Decision to Establish Intentional Program Violation issued December 27, 2021).
3. On January 5, 2022, the Department sent Petitioner an Intentional Program Violation Client Notice, advising him that he was disqualified from the FAP for 12 months and would be ineligible from February 1, 2022, to January 31, 2023. (Exhibit A, pp. 10-12)
4. On or around [REDACTED] 2022, Petitioner submitted an application for FAP benefits.

5. On or around March 2, 2022, the Department sent Petitioner a Notice of Case Action advising him that his [REDACTED] 2022, FAP application was denied because he was subject to an IPV disqualification and ineligible to receive FAP benefits. (Exhibit A, pp. 6-10)
6. On April 28, 2022, Petitioner requested a hearing disputing the Department's actions with respect to his FAP case. Petitioner's hearing request indicates that he was unable to present his case to the judge and was sick the day of his meeting with the judge. (Exhibit A, pp. 3-4)
7. Petitioner's April 28, 2022, request for hearing was also considered a request for rehearing/reconsideration of the 21-003788 hearing and forwarded to the Michigan Office of Administrative Hearings and Rules (MOAHR).
8. On or around May 11, 2022, MOAHR received Petitioner's Request for Reconsideration of the Hearing Decision issued by ALJ Gardocki, and in response, on May 26, 2022, ALJ Gardocki issued an Order Denying Request for Rehearing/Reconsideration, finding that Petitioner's request was not timely filed within 30 days of the date the Hearing Decision was issued. (See MOAHR Docket No. 21-003788-RECON; Order Denying Request for Rehearing/Reconsideration.)
9. There was no evidence that Petitioner appealed the Hearing Decision, or the Order Denying Request for Rehearing/Reconsideration issued by ALJ Gardocki to the Circuit Court.

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.

Petitioner requested a hearing disputing the Department's actions with respect to his FAP benefits. The Department testified that Petitioner was ineligible for FAP benefits at the time of his [REDACTED] 2022, application because he was serving a one-year IPV disqualification. A disqualified person is one who is ineligible for FAP benefits due to a failure to meet an eligibility factor. Individuals may be disqualified from receiving FAP benefits based on an intentional program violation. BEM 212 (January 2022), pp. 8-9. Additionally, a court or hearing decision that finds a client committed an IPV disqualifies that client from receiving program benefits. BAM 720 (October 2017), pp. 15-17. A

disqualified recipient remains a member of an active group as long as he lives with them, and other eligible group members may continue to receive benefits. BAM 720, p. 16. Clients who commit an IPV are disqualified for a standard disqualification period of one year for the first IPV. BAM 720, p. 15-17.

At the hearing, it was established that following a Hearing Decision issued on December 27, 2021, which found that Petitioner had committed an intentional program violation concerning his FAP benefits, the Department was ordered to disqualify Petitioner from the FAP for a period of 12 months. The Department presented the January 5, 2022, Intentional Program Violation Client Notice sent to Petitioner advising him that he was disqualified from the FAP for 12 months and would be ineligible from February 1, 2022, to January 31, 2023. (Exhibit A, pp. 10-12). Although Petitioner asserted that he was not present for and could not participate in the prior IPV hearing brought against him because he was ill and further sought to dispute the merits of the IPV findings, the evidence showed that Petitioner received a copy of the Hearing Decision which imposed the disqualification and in response, requested a Reconsideration of the Hearing Decision. Petitioner attempted to re-litigate the issues presented in the IPV hearing, arguing that there was no IPV; however, the merits of the previously decided IPV case were not addressed. There was no evidence that the Hearing Decision or the Order Denying Request for Rehearing/Reconsideration were appealed to the Circuit Court; thus, the decisions stand.

The Department presented sufficient evidence to establish that Petitioner was subject to an intentional program violation disqualification at the time that he submitted his application for FAP benefits. As such, the Department properly denied the application. Petitioner is informed that he is entitled to submit a new application for FAP benefits at the conclusion of the 12-month FAP 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 denied Petitioner's [REDACTED] 2022, FAP application.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.



Zainab A. Baydoun
Administrative Law Judge

ZB/tm

