



GRETCHEN WHITMER
GOVERNOR

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

MARLON I. BROWN
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: May 10, 2024
MOAHR Docket No.: 24-003766
Agency No.: [REDACTED]
Petitioner: [REDACTED] [REDACTED]

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 May 2, 2024, from Lansing, Michigan. [REDACTED] [REDACTED] the Petitioner, appeared on his own behalf. The Department of Health and Human Services (Department) was represented by Amber Gibson, Hearing Facilitator.

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-21. The record was left open for the Department to provide documentation of the prior Intentional Program Violation determinations, which has been received and admitted as Exhibits B, pp. 1-5, Exhibit C, pp. 1-6, and Exhibit D, pp. 1-12.

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. On March [REDACTED] 1998, Petitioner signed a Recoupment and Disqualification Agreement, in part admitting to receiving FAP benefits from September 1993 to November 1993 as a result of failing to report earned income. Petitioner agreed to administrative recoupment as well as a 12-month program disqualification as this was his first offence. (Exhibit B, p. 2)

2. On July █ 2001, Petitioner signed a Recoupment and Disqualification Agreement, in part admitting to receiving FAP benefits from November 1996 to June 30, 1997 as a result of failing to provide complete and accurate information regarding earned income. Petitioner agreed to administrative recoupment as well as a 24-month program disqualification as this was his second offence. (Exhibit C, pp. 5-6)
3. On August █ 2006, Petitioner signed an Intentional Program Violation Repayment Agreement and a Request for Waiver of Disqualification Hearing, in part admitting to receiving FAP benefits from December 2001 to November 30, 2002 as a result of failing to timely report change(s) in household circumstances. Petitioner agreed to administrative recoupment as well as a lifetime program disqualification as this was his third offence. (Exhibit D, pp. 5-8)
4. On February █ 2024, Petitioner applied for FAP. (Exhibit A, pp. 6-16)
5. On February █ 2023, a Notice of Case Action was issued to Petitioner denying FAP benefits because he has a lifetime program disqualification. (Exhibit A, pp. 17-20)
6. On March 22, 2023, Petitioner filed a hearing request contesting the Department's determination. (Exhibit A, pp. 3-5)

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.

An individual who is found pursuant to an IPV disqualification hearing to have committed a FAP IPV is disqualified from receiving benefits for the same program for 12 months for the first IPV, 24 months for the second IPV, and lifetime for the third IPV. 7 CFR 273.16(b)(1); BAM 720, p. 16.

In this case, Petitioner applied for FAP on February █ 2024. (Exhibit A, pp. 6-16). However, Petitioner had three prior IPV disqualifications. On March █ 1998, Petitioner signed a Recoupment and Disqualification Agreement, in part admitting to receiving FAP benefits from September 1993 to November 1993 as a result of failing to report earned

income. Petitioner agreed to administrative recoupment as well as a 12-month program disqualification as this was his first offence. (Exhibit B, p. 2). On July 2, 2001, Petitioner signed a Recoupment and Disqualification Agreement, in part admitting to receiving FAP benefits from November 1996 to June 30, 1997 as a result of failing to provide complete and accurate information regarding earned income. Petitioner agreed to administrative recoupment as well as a 24-month program disqualification as this was his second offence. (Exhibit C, pp. 5-6). On August [REDACTED] 2006, Petitioner signed an Intentional Program Violation Repayment Agreement and a Request for Waiver of Disqualification Hearing, in part admitting to receiving FAP benefits from December 2001 to November 30, 2002 as a result of failing to timely report change(s) in household circumstances. Petitioner agreed to administrative recoupment as well as a lifetime program disqualification as this was his third offence. (Exhibit D, pp. 5-8). Accordingly, on February [REDACTED] 2023, a Notice of Case Action was issued to Petitioner denying FAP benefits because he has a lifetime program disqualification. (Exhibit A, pp. 17-20).

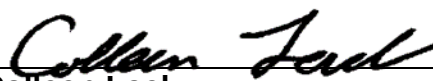
Petitioner testified that he thought he only had one prior IPV. Petitioner also wanted to the IPV finding(s) to be reviewed. (Petitioner Testimony). As discussed, there is no jurisdiction to review the prior IPV determinations as a part of this hearing. Rather, this hearing is limited to reviewing the Department's determination to deny the February [REDACTED] 2024 FAP application. Further, the record was left open for the Department to provide documentation of the prior IPV determinations. The Department provided documentation that Petitioner signed the recoupment and disqualification agreements for all three IPV determinations. This included agreeing to the lifetime disqualification from FAP for the third IPV determination. (Exhibit B, p. 2; Exhibit C, pp. 5-6; and Exhibit D, pp. 5-8).

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 application for FAP benefits.

DECISION AND ORDER

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

CL/dm



Colleen Lack
Administrative Law Judge

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-Electronic Mail :

DHHS
Amber Gibson
Ingham County DHHS
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MOAHR

Via-First Class Mail :

Petitioner

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