



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

ORLENE HAWKS
DIRECTOR

[REDACTED]
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[REDACTED] MI [REDACTED]

Date Mailed: January 15, 2019
MAHS Docket No.: 18-012938
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 three-way telephone hearing was held on January 10, 2019, from Detroit, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Dawn McCoy, Hearing Facilitator.

ISSUE

Did the Department properly close the Petitioner's Food Assistance Program (FAP) benefits for failure to respond properly to a New Hire Client Notice?

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 receiving FAP benefits through the MICAP Combined Application Project.
2. A New Hire Notice was issued to Petitioner on October 5, 2018, with a due date of October 15, 2018, for the employer identified as [REDACTED]. (Exhibit A.)
3. On October 10, 2018, the Petitioner signed the New Hire Notice and returned it to the Department. The New Hire Notice was not completed by the Petitioner other than her signature. (Exhibit A, pp. 9-10.)

4. The Department sent the Petitioner a Notice of Case Action on October 1, 2018, closing the Petitioner's FAP case effective November 1, 2018, for failure to verify information.
5. The Petitioner requested a timely hearing on November 5, 2018, protesting the Department's actions.

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-.3011.11

In this case, the Department closed the Petitioner's food assistance benefits for failure to respond correctly to a New Hire Client Notice sent to her. The Petitioner signed the form and dated it by the due date but did not fill in the information on the form regarding her employment. The Petitioner was a participant in the Michigan Combined Application Project (MICAP) at the time of the Department's action. MICAP is a Food Assistance demonstration project approved by the federal Food and Nutrition Service (FNS). The MICAP unit continues to administer the case including completing redeterminations and certifying eligibility. The Petitioner is a Supplemental Security Income (SSI) recipient and a group of one person.

The MICAP program is unique; and once a case is certified and an individual is determined eligible for MICAP, eligibility will be for a 36-month benefit period. BEM 618 A redetermination will then be completed every 36 months. BEM 618, (April 2018), p. 2. The case notes provided by the Department indicate that the Petitioner successfully completed a redetermination in January 2018. (Exhibit B.)

The MICAP program has the following non-financial requirements:

Residence

An individual must be a resident of the State of Michigan. Individuals are considered residents if they live in Michigan and intend to remain in Michigan.

Age

An individual must be age 18 or older.

Concurrent Receipt of Benefits

An individual cannot receive both MICAP and FAP in the same month. BENM 618, (April 2018), p. 3.

The MICAP program has the following financial requirements:

Group Composition

The MICAP group is always a group of one.

Assets

There is no asset test.

Income

There is no income test. (emphasis supplied). BEM 618 (April 2018), pp. 3-4.

Once an individual is eligible, eligibility continues unless an individual loses SSI eligibility, moves out of state, is ineligible due to a change in the SSA living arrangement code, dies or becomes a mandatory member of another active FAP case. BEM 618, p. 4.

In this case, the Department did not demonstrate that Petitioner failed to meet the non-financial eligibility factors and did not demonstrate a basis to close the MICAP case as there is no income test for MICAP recipients to meet; thus, employment in this case is irrelevant. In addition, once eligible, eligibility continues unless the factors listed in the preceding paragraph exist; none of the factors supporting a closure were demonstrated as a basis for the Department's closure. See BEM 618.

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 not act in accordance with Department policy when it closed the Petitioner's MICAP FAP.

DECISION AND ORDER

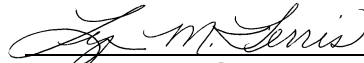
Accordingly, the Department's decision is **REVERSED**.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Shall reinstate the Petitioner's MICAP food assistance case effective November 1, 2018, the date of closure.

2. The Department shall supplement the Petitioner for FAP benefits she was entitled to receive, if otherwise eligible, in accordance with Department policy.

LMF/



Lynn M. Ferris

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 Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS 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. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MAHS Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

DHHS

Nicolette Vanhavel
MDHHS-MiCAP-Hearings

Petitioner

[REDACTED]
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M Holden
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