



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]
Date Mailed: February 1, 2019
MAHS Docket No.: 18-013168
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jacquelyn A. McClinton

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 January 23, 2019, from Detroit, Michigan. Petitioner represented herself. The Department of Health and Human Services (Department) was represented by [REDACTED] Hearing Facilitator and [REDACTED] Eligibility Specialist.

ISSUE

Did the Department properly deny Petitioner's [REDACTED] 2018 application for the 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 [REDACTED] 2018, Petitioner submitted an application for FAP benefits.
2. Petitioner had previously applied for FAP benefits.
3. On February 17, 2018, Petitioner married [REDACTED]
4. On November 14, 2018, the Department sent Petitioner a Verification Checklist (VCL) requesting proof of [REDACTED] residency; proof of his income; and the family banking account information.
5. Petitioner failed to return the requested proofs by the due date of November 26, 2018.

6. On December 4, 2018, the Department sent Petitioner a Notice of Case Action which notified Petitioner that her application for FAP benefits had been denied.
7. On December 7, 2018, Petitioner filed a Request for Hearing disputing 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.

Additionally, verification is usually required at application/redetermination **and** for a reported change affecting eligibility or benefit level. BAM 130 (April 2017), p. 1. Further, spouses who are legally married and live together **must** be in the same group. BEM 212 (January 2017), p. 1.

In this case, Petitioner submitted an application for FAP benefits on [REDACTED] 2018. The Department testified that Petitioner had previously applied for FAP benefits on several occasions in the past. The Department indicated that in May 2018, it learned that Petitioner married [REDACTED] in February 2018. As a result, it sent Petitioner a VCL requesting proofs relating to Petitioner's residency and income.

The Department indicated that in May 2018, the Office of Inspector General began an investigation to determine whether Petitioner and her husband lived together. According to the documents provided, the OIG Agent talked with [REDACTED] who indicated that he initially moved out of the home in March 2018 but had moved back into the home in May 2018. [REDACTED] further indicated that he resided with his brother during the time he was not living with Petitioner. [REDACTED] provided a contact telephone number for himself as well as his brother.

Petitioner testified that [REDACTED] never returned to the family home after he left in March 2018. The February 2017 lease contained in Petitioner's electronic case file does not list [REDACTED] as a household member. Petitioner testified that she recently signed a new lease and [REDACTED] name is not listed on the current lease. It does not appear that the Department reviewed the Michigan Secretary of State database to determine the address listed on [REDACTED] driver's license or contacted [REDACTED]

brother to verify that [REDACTED] no longer resides with him. Further, it appears that the Department accepted [REDACTED] statement that he lived in the home and discounted Petitioner's assertion that [REDACTED] does not live in the home.

Petitioner testified that she and [REDACTED] do not have any children together. As such, Petitioner has no ties to [REDACTED] other than the marriage. Petitioner indicated that she is unable to obtain any additional information of [REDACTED] whereabouts. [REDACTED] name does not appear on any of the utility bills in the home in which Petitioner resides. Other than [REDACTED] statement, the Department provided no additional proof that [REDACTED] was residing in the home at the time Petitioner submitted the [REDACTED] 2018 application for FAP benefits.

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 denied Petitioner's application for FAP benefits.

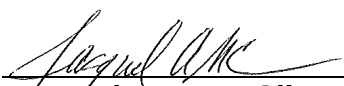
DECISION AND ORDER

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. Reregister and reprocess Petitioner's [REDACTED] 2018 application for FAP benefits;
2. If Petitioner was eligible for supplements, issue FAP supplements Petitioner was eligible for but did not receive relating to her [REDACTED] 2018 application for FAP benefits; and
3. Notify Petitioner in writing of its decision.

JAM/tlf



Jacquelyn A. McClinton
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

Via Email:

MDHHS-Kalamazoo-Hearings
BSC3 Hearing Decisions
[REDACTED]
[REDACTED]
MAHS

Petitioner – Via First-Class Mail:

[REDACTED]
[REDACTED]
[REDACTED]