



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]

Date Mailed: February 11, 2019
MAHS Docket No.: 18-013995
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm

HEARING DECISION

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, 7 CFR 273.15, and Mich Admin Code, R 792.11002. After due notice, a hearing was held on February 6, 2019, from Lansing, Michigan. Petitioner, [REDACTED] [REDACTED] appeared and represented herself. Hearing Facilitator, Richkelle Curney, appeared and represented the Department. Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. An 8-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

ISSUE

Did the Department properly close Petitioner's 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. In December 2017, Petitioner had a fire at her home. Thereafter, Petitioner did not have a mailbox at her home.
2. In January 2018, Petitioner acquired a post office box. Petitioner set up a mail forwarding so that all the mail sent to her home would be forwarded to her post office box. Petitioner also notified the Department that she was using a post office box.

3. The Department did not update Petitioner's mailing address to her post office box address. The Department continued to send mail to Petitioner at her home address. Petitioner received the mail from the Department that was forwarded to her post office box. Petitioner did not notify the Department to update her mailing address to her post office box.
4. In October and November 2018, the Department mailed correspondence to Respondent and it was returned by the United States Postal Service as undeliverable. The mail was marked "vacant - unable to forward." The Department did not contact Petitioner to ask her about her mailing address when it received the returned mail.
5. On November 26, 2018, the Department issued a Notice of Case Action which notified Petitioner that her FAP benefits were going to be closed effective December 1, 2018, because "verification of unable to locate household was not returned."
6. On December 26, 2018, Petitioner filed a hearing request to dispute the Department's decision to close her FAP benefits.

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.

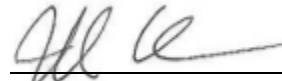
The Department cited BEM 220 as the reason for its decision to close Petitioner's FAP benefits. BEM 220 does not support the Department's decision. BEM 220 does not contain any provision that requires or permits the Department to close a FAP recipient's case simply because mail sent by the Department is returned to the Department. To the contrary, BEM 220 states that assistance cannot be denied solely because a FAP recipient does not have a fixed address. BEM 220 (April 1, 2018), p. 1 & 6. The Department did not present any evidence to establish that it closed Petitioner's FAP benefits for any other reason or pursuant to any other authority, so I must find that the Department's actions were not in accordance with its policies and the applicable law.

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 did not act in accordance with its policies and the applicable law when closed Petitioner's FAP benefits effective December 1, 2018.

IT IS ORDERED the Department's decision is **REVERSED**.

JK/nr



Jeffrey Kemm
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

Tara Roland 82-17
8655 Greenfield
Detroit, MI
48228

Wayne 17 County DHHS- via electronic
mail

BSC4- via electronic mail

D. Smith- via electronic mail

EQAD- via electronic mail

Petitioner

[REDACTED]
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