



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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Date Mailed: February 1, 2019
MAHS Docket No.: 18-013470
Agency No.: ██████████
Petitioner: ██████████ ██████████

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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 Lansing, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Amber Gibson Hearing Facilitator. Department Exhibit 1, pp. 1-59 was received and admitted.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) case for failing to return verifications?

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 ██████████ 2018, Petitioner applied for FAP benefits.
2. On August 23, 2018, expedited FAP benefits were approved. (Ex. 1, pp.15-19)
3. On August 23, 2018, Petitioner submitted bank account records that did not have sufficient identifying information. (Ex., 1, pp. 24-26)
4. On August 23, 2018, a verification checklist was sent to Petitioner requesting verification of a bank account. (Ex. 1, pp.27-28)
5. On October 11, 2018, FAP benefits were closed effective October 1, 2018, due to failure to return verifications. (Ex. 1, pp. 31-34)

6. On December 10, 2018, Petitioner requested hearing contesting the closure of FAP benefits. (Ex. 1, pp.2-3)
7. On December 1, 2018, Petitioner applied for FAP benefits and was approved after verification of bank account was received.

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.

Send a negative action notice when:

- The client indicates refusal to provide a verification, **or**
- The time period given has elapsed and the client has **not** made a reasonable effort to provide it. BAM 130 (April 2017)

In this case, Petitioner submitted bank account verifications on August 23, 2018, but it did contain sufficient identifying information. The Department sent another verification checklist on August 23, 2018 but did not state what specific information was missing but required. Petitioner did not refuse or fail to make a reasonable effort to provide verification. Therefore, the closure for failing to provide verification was improper and incorrect. BAM 130, 7 CFR § 273.10 Petitioner later provided verification of bank account with her name on it with the same bank account number that Petitioner originally provided. Petitioner's assets were below the asset limit at all relevant time periods.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Petitioner's FAP case for failing to return verifications.


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. Reinstate FAP benefits going back to the October 1, 2018.
2. Issue a supplement for any missed FAP benefits.

AM/nr



Aaron McClintic
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

Amber Gibson
5303 South Cedar
PO BOX 30088
Lansing, MI
48911

Ingham County DHHS- via electronic mail

BSC2- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

Petitioner

[REDACTED]
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