



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: March 1, 2019  
MAHS Docket No.: 19-000486  
Agency No.: ██████████  
Petitioner: ██████████ ██████████

**ADMINISTRATIVE LAW JUDGE:** Vicki L. Armstrong

**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 February 27, 2019, from Lansing, Michigan. The Petitioner was represented by ██████████ ██████████

The Department of Health and Human Services (Department) was represented by Hayat Naji. Ms. Naji testified on behalf of the Department. The department submitted 29 exhibits which were admitted into evidence. The record was closed at the conclusion of the hearing.

**ISSUE**

Did the Department properly deny Petitioner's Food Assistance Program (FAP) application?

**FINDINGS OF FACT**

The Administrative Law Judge, based on competent, material, and substantial evidence on the whole record, finds as material fact:

1. On ██████████ ██████████ 2018, Petitioner applied for FAP benefits. [Dept. Exh. 5-14].
2. On October 22, 2018, the department mailed Petitioner a Verification Checklist requesting proof of rent and a copy of the vendor pre-paid debit card. [Dept. Exh. 15-16].
3. Petitioner's authorized representative (AR) credibly testified that Petitioner is disabled and that she applied for FAP benefits on behalf of Petitioner. During the

FAP interview, the AR explained to the worker that Petitioner was staying in his sister's basement and that he did not have a Vendor Pre-Paid Debit Card. The AR asked the worker if she wanted a copy of the representative's card and was told no. [Testimony of Petitioner's Representative, ██████████ ██████████ February 27, 2019].

4. On November 6, 2018, Petitioner submitted his change of address to the department. [Testimony of Eligibility Specialist Hayat Nagy, February 27, 2019].
5. On November 9, 2018, the department mailed a Notice of Case Action to Petitioner's previous address, which Petitioner did not receive. [Testimony of Petitioner's Representative, ██████████ ██████████ February 27, 2019].
6. On December 20, 2018, Petitioner requested a hearing on the denial of FAP benefits. [Dept. Exh. 2-3].
7. On January 24, 2018, the department forwarded Petitioner's request for a hearing to the Michigan Administrative Hearing System. [Hearing Summary, January 24, 2019].
8. On February 14, 2019, a Notice of Hearing was mailed to all parties scheduling the contested hearing for February 27, 2019. [Notice of Hearing, February 14, 2019].
9. The AR attempted to stay in close contact with the worker that was processing Petitioner's FAP application. However, after numerous telephone calls went unanswered, the AR discovered that the worker no longer worked there. The AR was then given the name of the new worker. The AR left numerous messages that were never returned for the new worker. The AR was then told that Petitioner again had a third worker. [Testimony of Petitioner's Representative, ██████████ ██████████ February 27, 2019].
10. Ms. Nagy, the Eligibility Specialist representing the department at the hearing, credibly testified that she tried to submit a ticket on the case to reinstate Petitioner's FAP benefits to ██████████ ██████████ 2018, the date of application. Ms. Nagy also testified that Petitioner had changed his address on November 6, 2018. [Testimony of Eligibility Specialist Hayat Nagy, February 27, 2019].

### **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 uses the Verification Checklist, DHS-3503, to tell the client what verification is required, how to obtain it and the due date. BAM 130, p 3. The client must obtain the required verification, but the Department must assist if they need and request help. *Id.*

In this case, Petitioner requested assistance numerous times and the department failed to assist, in violation of department policy, BAM 130. Moreover, despite the department having received Petitioner's new address on November 6, 2018, the department mailed the Notice of Case Action to Petitioner's previous address. The Eligibility Specialist recognized the complex issues in this case and submitted a ticket to have Petitioner's FAP benefits go back to October 21, 2018, the date of Petitioner's FAP application.

Based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, this Administrative Law Judge, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Petitioner's request to reinstate the FAP benefits back to the date of application.


### **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 Petitioner's FAP benefits back to the date of application.
2. Issue a new Notice of Case Action reflection the reinstatement back to the date of application and mail it to Petitioner's address of record.

VLA/nr

  
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Vicki L. Armstrong  
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**

Montrece White  
27690 Van Dyke  
Warren, MI  
48093

Macomb 20 County DHHS- via electronic mail

BSC4- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

**Petitioner**

[REDACTED]  
[REDACTED]  
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[REDACTED]