



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

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██████████, MI ██████████

Date Mailed: April 26, 2019
MOAHR Docket No.: 19-002921
Agency No.: ██████████
Petitioner: ██████████

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 telephone hearing was held on April 24, 2019, from Lansing, Michigan. Petitioner, ██████████, appeared with his mother, ██████████ ██████████ Family Independence Manager, Mark Boyd, and Eligibility Specialist, Tinisha Andrews, appeared for the Department of Health and Human Services (Department). Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 12-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

ISSUE

Did the Department properly determine Petitioner's eligibility for 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 ██████████ ██████████ 2019, Petitioner requested FAP benefits from the Department.
2. On February 11, 2019, the Department interviewed Petitioner. During the interview, the Department told Petitioner that he was going to be required to provide some verifications.

3. On February 11, 2019, the Department issued a verification checklist to Petitioner. The verification checklist instructed Petitioner to provide a current statement for his checking and savings accounts from his bank(s) or financial institution(s). The checklist further instructed Petitioner that if he had problems getting the information requested to contact the Department. The verification checklist advised Petitioner that the information was due by February 21, 2019, and that benefits may be denied for failure to provide the information by the due date.
4. Petitioner attempted to obtain records for his bank accounts. Petitioner had an old bank account that was affiliated with his past employment. Petitioner attempted to obtain records for the old bank account, but he was unsuccessful.
5. On February 13, 2019, Petitioner contacted the Department and advised the Department that he was having trouble obtaining records for his old bank account.
6. On March 7, 2019, the Department issued a notice of case action which notified Petitioner that his request for FAP benefits was denied because he did not provide verification of his checking account.

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.

Verification is usually required at application. BAM 130 (April 1, 2017), p. 1. Verification includes the use of documents, collateral contacts, and home calls. BAM 130, p 1-2. The Department must tell the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. The Department must allow the client 10 calendar days to provide the verification that is requested. BAM 130, p. 8. The Department must send a case action notice if the client refuses to provide the requested verification or the client fails to make a reasonable effort to provide it before the due date lapses. BAM 130, p. 8-9.

Here, the Department did not act in accordance with its policies when it denied Petitioner's request for FAP benefits because Petitioner had not refused to provide

requested information or failed to make a reasonable effort to provide requested information. Petitioner had made a good faith effort to provide all documentation the Department requested from him. Petitioner made a reasonable attempt to provide the requested bank account information to the Department prior to the Department's due date, and Petitioner notified the Department that he was having problems obtaining the requested information. Petitioner's actions showed that he intended to provide the Department with all information it requested and that he had been making a good faith effort to do so.


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 it denied Petitioner's request for FAP benefits on March 7, 2019.

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

IT IS FURTHER ORDERED that the Department shall begin to implement this decision within 10 days.

JK/hb



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 Office of Administrative Hearings and Rules (MOAHR).

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

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

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

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

DHHS

Richard Latimore
4733 Conner
Detroit, MI 48215

Wayne County (District 57), DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

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[REDACTED], MI [REDACTED]