



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]
Date Mailed: April 26, 2019
MOAHR Docket No.: 19-003134
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: John Markey

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 April 25, 2019, from Detroit, Michigan. Petitioner appeared and represented herself. Also appearing on behalf of Petitioner was witness [REDACTED]. The Department of Health and Human Services (Department) was represented by Shanita Gains, Assistance Payments Worker. During the hearing, a 19-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-19.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefits case, effective April 1, 2019?

FINDINGS OF FACT

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

1. Petitioner was an ongoing recipient of FAP benefits from the Department. At all relevant times, Petitioner lived in a home with [REDACTED]. However, [REDACTED] was not a member of Petitioner's FAP group.
2. On February 2, 2019, the Department issued to Petitioner a Redetermination in order to gather relevant information regarding Petitioner's ongoing eligibility for Department-issued benefits. Petitioner was required to return the completed form to the Department by March 6, 2019.

3. On March 4, 2019, the Department received Petitioner's completed Redetermination.
4. On March 5, 2019, the Department issued to Petitioner a Verification Checklist directing Petitioner to provide verifications relating to Petitioner's checking account. In the comments section of the document, the Department directed Petitioner to "provide the Department with proof of [REDACTED] and [REDACTED] February or March 2019 checking or savings account statement [REDACTED]." The requested verifications were due by March 15, 2019. Exhibit A, p. 5.
5. On March 5, 2019, the Department issued to Petitioner a Verification of Assets form. The only information identifying what was requested was an entry that stated [REDACTED]. While the form was sent to Petitioner, it directed Petitioner to authorize [REDACTED] to release her information to the Department and provide the form to [REDACTED] to complete. The substantive part of the form said "THIS SECTION IS TO BE COMPLETED BY FINANCIAL INSTITUTION." Exhibit A, pp. 6-7.
6. On March 14, 2019; March 18, 2019; and March 25, 2019, the Department received from Petitioner bank statements related to two accounts held at [REDACTED]. One of the accounts was in Petitioner's name and ended in 1532. The other was in [REDACTED] name and ended in 9334. Exhibit A, pp. 8-17.
7. On March 18, 2019, the Department issued to Petitioner a Notice of Case Action informing Petitioner that her FAP case was closing, effective April 1, 2019. The stated reason for the action was "[v]erification of Bank Account Checking (BEM 400) was not returned for [REDACTED]. Manual Item(s): ERM 101, 103". Exhibit A, pp. 18-19.
8. On [REDACTED], 2019, Petitioner submitted to the Department a request for hearing objecting to the Department's closure of her FAP case.

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.

In this case, Petitioner's FAP benefits case was closed, effective April 1, 2019, after the Department determined that Petitioner failed to timely provide relevant eligibility-related verifications necessary to determine whether Petitioner's countable assets were below the threshold for eligibility and certify her new benefit period.

The Department must redetermine or renew a client's eligibility for FAP benefits by the end of each benefit period. BAM 210 (January 2018), pp. 1, 3. The redetermination process includes thorough review of all eligibility factors. BAM 210, p. 1. In order to certify a new benefit period, the Department must receive the completed form along with all required verifications. BAM 210, p. 11. If a redetermination is not completed and a new benefit period certified, FAP benefits stop at the end of the benefit period, and the client loses his or her right to uninterrupted FAP benefits. BAM 210, pp. 3, 21.

In order to be eligible for FAP benefits, a group must have countable assets of \$5,000 or less. BEM 400 (May 2018), p. 5. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130, p. 1. Additionally, the Department must obtain verification when information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. BAM 130, p. 1. To request verification of information, the Department sends a verification checklist (VCL) which tells the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. If the time period for providing the verifications passes without having provided the verifications and the benefit period has expired, the case is to be closed as of the end of the benefit period. BAM 130, p. 8.

Petitioner's benefit period was set to expire at the end of March 2019. Petitioner timely returned a completed Redetermination to the Department. The Department then requested additional information via a VCL issued March 5, 2019. The VCL requested checking account information related to Petitioner and [REDACTED], despite [REDACTED] not being a member of Petitioner's FAP group. The Department clarified its request by adding a comment that stated "Please provide the Department with proof of [REDACTED] and [REDACTED] February or March 2019 checking or savings account statement [REDACTED]." The requested information was due by March 15, 2019.

On March 14, 2019, Petitioner provided to the Department bank statements showing the balance and transaction history of two separate accounts held at [REDACTED], one of which was in Petitioner's name and the other in [REDACTED] name. The Department deemed the submission insufficient and issued the March 18, 2019, Notice of Case Action closing Petitioner's FAP case, effective April 1, 2019. Petitioner then submitted account information related to those same two accounts again on March 18, 2019, and March 25, 2019. The Department's decision to close Petitioner's FAP case was based on the Department's conclusion that Petitioner did not adequately verify the account information at [REDACTED] related to an account ending in [REDACTED].

While it is true that Petitioner did not provide that information until after the end of the benefit period, that does not necessarily mean that Petitioner's case was properly closed for failing to provide requested verifications. As stated above, verifications are to

be requested via a VCL. The only VCL relevant to this matter requested information that Petitioner in fact provided in a timely manner. Thus, Petitioner did not fail to return requested verifications, which was the basis for the closure.

Additionally, Petitioner made a good faith effort to provide what was being asked for. She repeatedly stated that she did not have an account ending in [REDACTED] and attempted to have the bank fill out the Verification of Assets form, which while mailed to Petitioner, was clearly a communication to the financial institution. The only thing Petitioner was directed to do was authorize the bank to release the information being sought, which was in the bank's possession. The bank would not do so despite repeated attempts. Petitioner's actual compliance with the only request for information made from her and her diligent attempts to have [REDACTED] fill out a form requesting additional information cannot form the basis for a closure of Petitioner's FAP benefits case.

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 closed Petitioner's FAP case, effective April 1, 2019.

DECISION AND ORDER

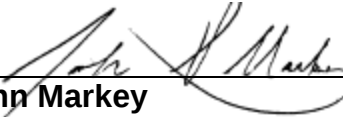
Accordingly, the Department's decision is **REVERSED**.

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 case, effective April 1, 2019;
2. If any eligibility-related factors remain unclear, inconsistent, or contradictory, follow Department policy in issuing verification checklists that specifically and clearly request the information required;
3. Redetermine Petitioner's eligibility for FAP benefits;
4. If Petitioner is eligible for additional FAP benefits, issue any appropriate supplements; and

5. Notify Petitioner in writing of its decision.

JM/cg


John Markey
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

Via Email:

MDHHS-Wayne-31-Hearings
M. Holden
D. Sweeney
BSC4- Hearing Decisions
MAHS

Petitioner – Via First-Class Mail:

[REDACTED]
[REDACTED]
[REDACTED]