



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] MI [REDACTED]

Date Mailed: June 21, 2019
MOAHR Docket No.: 19-003822
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 telephone hearing was held on June 20, 2019, from Lansing, Michigan. Petitioner, [REDACTED] [REDACTED] appeared and represented herself. Eligibility Specialist, Rietia Thompson, 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 24-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

ISSUE

Did the Department properly terminate 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. Petitioner is a FAP benefit recipient.
2. Petitioner applied for State Emergency Relief (SER), which prompted the Department to request verifications from Petitioner.
3. On March 8, 2019, the Department issued a notice of case action which notified Petitioner that her FAP benefits were closed effective April 1, 2019, for failure to provide requested verifications.

4. On April 9, 2019, Petitioner filed a hearing request to dispute the Department's decision.
5. The Department has since reinstated Petitioner's 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.

Here, the Department did not present sufficient evidence to establish that it acted in accordance with its policies. The Department terminated Petitioner's FAP benefits for allegedly failing to provide requested verifications, particularly pre-paid debit cards. Petitioner testified that she was unaware she was required to provide such verifications. The Department did not present a copy of any verification request sent to Petitioner, so it is unknown what (if any) verifications were requested. Since there is no evidence that Petitioner was required to provide verifications, the Department has not established that Petitioner did in fact fail to provide requested verifications. Therefore, the Department's termination of Petitioner's FAP benefits for failing to provide requested verifications was not in accordance with its policies.

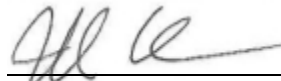
The Department asserted at the hearing that Petitioner's FAP benefits have been reinstated without a lapse. If that is the case, the issue is moot. However, the Department's decision is reversed, and the Department must ensure that its decision to terminate Petitioner's FAP benefits did not cause her to lose any benefits.

Petitioner asserted at the hearing that she wants to dispute the Department's budget used to calculate her FAP benefit amount. No evidence was received regarding this issue because Petitioner did not file her hearing request to dispute this issue. Petitioner filed her hearing request to dispute the termination of her FAP benefits, so that is the only issue that evidence was received on. Petitioner may dispute the Department's budget at any time to dispute her current FAP benefit amount if she believes that the Department's budget is incorrect, and she is unable to get the Department to correct it.

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 terminated Petitioner's FAP benefits effective April 1, 2019.

IT IS ORDERED the Department's decision is REVERSED. The Department shall begin to implement this decision within 10 days.



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 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

Montrece White
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Macomb 20 County DHHS- via electronic
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BSC4- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

Petitioner

[REDACTED]
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