



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
MI [REDACTED]

Date Mailed: June 21, 2019
MOAHR Docket No.: 19-005254
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. Hearing Facilitator, April Nemec, 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 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. On [REDACTED] [REDACTED] 2019, the Department issued a redetermination to Petitioner to obtain information to review her eligibility. The redetermination instructed Petitioner to (a) contact the Department on April 3, 2019, to complete a telephone interview and (b) complete and return the redetermination form.

3. Petitioner did not contact the Department on April 3, 2019, to complete a telephone interview, and Petitioner did not complete and return the redetermination form.
4. On April 3, 2019, the Department issued a notice of missed interview to Petitioner with instructions to contact the Department to reschedule her interview by April 30, 2019.
5. On April 15, 2019, Petitioner contacted the Department to reschedule her interview. The Department advised Petitioner to complete and return her redetermination form.
6. On April 17, 2019, Petitioner was declared legally blind.
7. On April 20, 2019, Petitioner's sister passed away.
8. On April 26, 2019, Petitioner's sister's funeral was held.
9. On April 30, 2019, Petitioner contacted the Department again to request an extension. The Department advised Petitioner that she still had to complete and return her redetermination form and that the Department could not grant an extension without the form.
10. On April 30, 2019, the Department terminated Petitioner's FAP benefits because her certification period ended.
11. On May 10, 2019, Petitioner filed a hearing request to dispute the termination of her 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.

A complete redetermination is required at least every 12 months. BAM 210 (April 1, 2019), p. 3. An interview must be held before determining eligibility for FAP benefits. BAM 210, p. 5-6. The complete redetermination is due on the day of the interview. BAM 210, p. 16. Clients are responsible for completing all necessary forms. BAM 105

(January 1, 2019), p. 1. The local office must assist clients who ask for help in completing forms. BAM 105, p. 15. Particular sensitivity must be shown to clients who are disabled. BAM 105, p. 15. If the client misses the interview, then the Department must issue a notice of missed interview. BAM 210, p. 6.


Here, the Department did not act in accordance with its policies because the Department did not provide reasonable assistance to Petitioner when she requested it. On April 15, 2019, and April 30, 2019, Petitioner contacted the Department and asked for assistance with her redetermination. Petitioner was blind and having difficulty completing the redetermination and returning it to the Department. On April 15, 2019, the Department advised Respondent that it would complete the form for her during her interview if she signed it and returned it to the Department. Although the Department offered some assistance, the Department's assistance was insufficient. The Department could have just as easily asked Petitioner for the information on her redetermination while she was on the phone, and Petitioner could have verified that information through an oral confirmation (which would have been much more reliable than any signature on a blank form).

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 May 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

Tamara Morris
125 E. Union St 7th Floor
Flint, MI
48502

Genesee Union St. 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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