[redacted]

Date Mailed: July 17, 2019
MOAHR Docket No.: 19-006288
Agency No.: [redacted]
Petitioner: [redacted]

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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 July 15, 2019, from Detroit, Michigan. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by [redacted], Hearings Facilitator, and [redacted], Family Independence Specialist.

ISSUE

Did the Department properly process Petitioner's reported change in her Food Assistance Program (FAP) case?

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 an ongoing FAP recipient.

2. On May 6, 2019, a faxed confirmation of Petitioner's resignation from employment at [redacted] (Employer 1) was received by the Department, but it did not contain information related to the last day of her employment or the date of her last paycheck; the letter was signed and dated for March 27, 2019.

3. On June 6, 2019, the Department received Petitioner's request for hearing disputing the Department's failure to process her reported change.

4. On June 13, 2019, the Department received a paystub dated June 7, 2019 from Petitioner for employment at [redacted], Incorporated (Employer 2).

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 disputes the Department's failure to process her reported change in employment as well as the resulting effects on her FAP benefit rate. Clients have a duty to report changes in household income and employment to the Department. BAM 105 (January 2019), p. 12. Petitioner attempted to provide verification of the end of her employment to the Department. Her initial attempt lacked information the Department deemed necessary to process her reported changes. Both the Department and Petitioner attempted to contact Petitioner's former employer to obtain the needed information but were unsuccessful. Policy provides that if neither the client nor the local office can obtain verification despite a reasonable effort, they are required to use the best available information and if no information is available, to use their best judgment. BAM 130 (April 2017), p. 3. Finally, policy also provides that benefits should not be terminated or denied because an employer or other source refuses to verify income. BEM 501 (October 2018), p. 9.

Since both Petitioner and the Department attempted to verify the end of Petitioner's employment, but neither was successful, the Department should have used the information available to it to make the necessary changes to Petitioner's case. The letter was signed and dated March 27, 2019. The best information available and the use of best judgment would indicate that Petitioner's employment ended at the time of the letter. Since policy indicates benefits cannot be terminated or denied because of the employer's failure to cooperate, logic follows that if the employer fails to cooperate to confirm the end of employment, the Department can still process the reported change.

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 failed to process Petitioner's reported change in employment.

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. Process Petitioner's reported loss of employment from Employer 1.

2. Notify Petitioner in writing of any changes to her FAP benefit rate after processing the reported loss of employment.

AM/tm

Amanda M. T. Marler
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

[redacted]

Petitioner

[redacted]

cc: [redacted]