



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: August 13, 2019
MOAHR Docket No.: 19-007268
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 August 7, 2019 from Detroit, Michigan. Petitioner appeared and represented herself. Also appearing on behalf of Petitioner was [REDACTED]. The Department of Health and Human Services (Department) was represented by Valarie Foley, Hearings Facilitator. During the hearing, a 24-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-24.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefits case, effective July 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.
2. On April 4, 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 May 6, 2019. Exhibit A, pp. 6-13.
3. On [REDACTED] 2019, the Department received Petitioner's completed Redetermination. Exhibit A, pp. 6-13.

4. On May 7, 2019, the Department issued to Petitioner a Verification Checklist directing Petitioner to provide verifications relating to Petitioner's checking account. Under the "Requested Proof (Return one of the following)" section of the document, it stated "Current statement from bank or financial institution DHS 20 Verification of Assets." Exhibit A, pp. 14-15.
5. Petitioner returned to the Department in a timely manner a bank statement from [REDACTED] that showed Petitioner's checking account information for the period from March 27, 2019 through April 24, 2019. Exhibit A, pp. 16-18.
6. On May 24, 2019, the Department issued to Petitioner a Notice of Case Action informing Petitioner that her FAP case was closing, effective July 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". In the comments section of the Notice of Case Action, the Department worker wrote "Failure to provide [REDACTED] account statement timely." Exhibit A, pp. 20-23.
7. 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 July 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 May 2019. Petitioner timely returned a completed Redetermination to the Department. The Department then requested additional information via a Verification Checklist issued May 7, 2019. The Verification Checklist requested checking account information related to Petitioner. Petitioner responded by providing a current statement for her checking account held at [REDACTED]

The Department responded by issuing a May 24, 2019 Notice of Case Action informing Petitioner that her FAP case was closing, effective July 1, 2019, as a result of Petitioner's failure to verify her checking account information. The Notice of Case Action further informs Petitioner that the missing checking account information was related to an account Petitioner allegedly held at [REDACTED]

The Department's decision must be reversed. The Verification Checklist required Petitioner to provide a current bank statement from her financial institution showing her assets in her checking account. Petitioner responded by providing exactly what the Department asked for in the form of a current bank statement showing her assets in her [REDACTED] Bank checking account. Petitioner's case was still closed, however, because she did not provide a current bank showing her assets in her alleged [REDACTED] checking account. Petitioner's submission literally complied with the request for information sent by the Department. The first appearance in the record of any reference to [REDACTED] is in the Notice of Case Action closing Petitioner's case. Petitioner complied with the Verification Checklist as it was written. Thus, her FAP case cannot be closed on the basis of not complying with the same Verification Checklist due to the Department's imposing into that same document an unwritten request for additional information.

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 July 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-19-Hearings
M. Holden
D. Sweeney
BSC4- Hearing Decisions
MOAHR

Petitioner – Via First-Class Mail:

[REDACTED]
[REDACTED]
[REDACTED]