



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: August 22, 2019
MOAHR Docket No.: 19-007677
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Janice Spodarek

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 15, 2019, from Lansing, Michigan. The Petitioner personally appeared and testified. Petitioner called [REDACTED] as a witness.

The Department of Health and Human Services (Department) was represented by Sylvester Williams, APW supervisor. The Department called R. Blackmer, APW.

ISSUE

Did the Department properly deny Petitioner's FAP application?

FINDINGS OF FACT

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

1. On [REDACTED] 2019 Petitioner applied for FAP benefits.
2. On June 13, 2019 Petitioner was sent a Verification Checklist (VC) requesting multiple verifications. On June 18, 2019 the Department issued a second VC requesting additional verifications regarding last 30 days of check stubs or earnings statements; employer statement; DHS-38 verification of Employment and DHS 3569 Agricultural Incomes Verification for Extended Stay due by June 28, 2019.
3. On June 25, 2019 the Department issued a Notice of Case Action denying Petitioner's application on the grounds that "verification of earned in come

payment; earned income payment; earned income payment; earned income payment; vendor prepaid debit card was not returned.”

4. On July 2, 2019 Petitioner filed a hearing request stating that she submitted a screen shot of several pictures as the prepaid Chase of America Chime card does not issue statements, and they were uploaded.
5. On July 26, 2019 the Department submitted a hearing summary stating that VC was due on June 24, 2019, that Petitioner failed to deliver the requested verifications by the June 24, 2019 due date, and that the application was denied June 25, 2019.

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, the Department contends that Petitioner failed to timely deliver the VC requests. The June 13, 2019 VC has a due date of June 24, 2019. The Notice of Case Action is dated June 14, 2019. However, the Department also included in its evidentiary packet a second VC dated June 18, 2019, with a June 28, 2019 due date. At the same time, the Department denied on 6/25/19 despite evidentially extending Petitioner's due date. The Department denied Petitioner's FAP application before the due date. Under these facts, the Department has failed to comply with federal and state notice and policy requirements. BAM 115, 600,130; 7 CFR 273.2, 273.12(a)(1). The Department cannot deny before the due date.

In addition, Petitioner credibly testified that she submitted all that she had regarding the bank card and uploaded the electronic file she periodically receives from [REDACTED] and her credit card into her DHHS electronic file as required. As to the employment verification request, Petitioner indicated that she has not worked for the requested employer since October 2018 and does not know how to get in contact with that employer. Evidentially the Department seems to have more information regarding that employer that Petitioner has. Under BAM 130 and corresponding federal regulations found at 7 CFR 273.2, the Department has an obligation to assist an application to obtain verification when an applying cannot or is having difficulty. Or in the alternative, the Department is required to use its best judgment pursuant to BAM

130, p 3. Under these facts, the Department has failed to carry out its duty of assistance an applicant with a 3rd party verification.

Petitioner credibly testified that she complied to the best of her ability with the Department's requests. The evidence as presented by the Department, fails to show that the Department complied with its policy and notice requirements. As such, the denial was not in conformance with policy and procedure and must be reversed.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Petitioner's FAP application of [REDACTED] [REDACTED] 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 June 13, 2019 FAP application.
2. Review Petitioner's file and uploaded data and determine if there are any outstanding verifications. If so, the Department is ordered to assist Petitioner where necessary to obtain any necessary verifications.
3. The Department is ordered to reprocess Petitioner's FAP application and issue written notice to Petitioner.
4. Petitioner shall retain a right to an administrative hearing for 90 days from the date of the new notice.

IT IS SO ORDERED.

JS/nr



Janice Spodarek
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

Linda Gooden
25620 W. 8 Mile Rd
Southfield, MI
48033

Oakland 3 County DHHS- via electronic
mail

BSC4- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

Petitioner

[REDACTED]
[REDACTED], MI