



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 26, 2019  
MOAHR Docket No.: 19-007869  
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 22, 2019, from Lansing, Michigan. Petitioner was represented by her spouse, [REDACTED] [REDACTED]. The Department of Health and Human Services (Department) was represented by Nicki Moore, APW.

**ISSUE**

Did the Department properly deny Petitioner's CDC application and properly close Petitioner's 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. At all relevant times, Petitioner had a FAP case for herself and her family.
2. On [REDACTED] [REDACTED] 2019 Petitioner applied for CDC.
3. On June 26, 2019 the Department issued a Verification Checklist (VC) requesting multiple verifications, including pay stubs. Among other requests, income verification was requested for the last 30 days. Nowhere on the VC are any forms identified as "431's".
4. Petitioner returned 8 pages of work sheets, a verification of employment form and a number of copies of pay checks.

5. On July 12, 2019 the Department issued a Notice of Case Action denying Petitioner's CDC application and closing Petitioner's FAP case effective August 1, 2019 for the following reason: "For self-employment last 90 days of income must be verified and 431's was sent out June 26, 2019 for verification of income and hours. They were not returned." Exhibit A.31.
6. On July 19, 2019 Petitioner filed a hearing request.

### **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.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

Applicable policy here is found primarily at BAM 130 and corresponding federal regulations found at 7 CFR 273.2. Additional self-employment policy is found at BEM 502. Other applicable policy is found at BEM 504, 702, 703 and 704. Correspondent federal regulations are found at 7 CFR 273.2.

In this case, the Department has the duty to clearly inform applicants and ongoing recipients as to what verifications are necessary. Here, the Department issued a VC that requested multiple verifications. As to how far back verifications were due for income, the only time period listed on the VC is 30 days for Petitioner's spouse. There is no time period listed for Petitioner.

Petitioner delivered multiple income and employment and pay work hours and pay stubs copies to the Department. However, the Department denied Petitioner's CDC application and closed Petitioner's FAP stating that Petitioner failed to deliver income verification for the last 90 days and the 431's. However, the Department admitted at the administrative hearing that it did not in fact request verification for the last 90 days.

Moreover, the Department admitted that it did not give Petitioner a corrected VC, but instead denied Petitioner's CDC application. Then the Department also decided to close Petitioner's FAP case for the same reason.

There is no policy or federal regulations that would allow the Department to deny and close a case on the grounds that a beneficiary failed to deliver a form that the Department never requested. Thus, the actions by the Department cannot be upheld.

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 and federal regulations when it denied Petitioner's CDC application and closed Petitioner's FAP case. The Department is reversed.

### **DECISION AND ORDER**

Accordingly, the Department's decision is **REVERSED**.

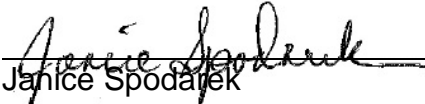
THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reinstated Petitioner's FAP case from the August 1, 2019 date of closure and issue any supplement benefits to Petitioner that her family may have lost, and
2. Reinstate Petitioner's CDC June 17, 2019 application, and
3. Issue any necessary and/or required request in writing to Petitioner regarding any outstanding verification(s) necessary to determine Petitioner's eligibility for her CDC application and FAP ongoing benefits, and
4. Reprocess Petitioner's June 17, 2019 application and
5. Issue written notice to Petitioner of the outcome of its reprocessing of the CDC application and any possible action on Petitioner's FAP case, if any.

Petitioner shall retain a right to a new administrative hearing should Petitioner dispute the outcome of the reprocessing of the CDC June 17, 2019 application, and/or any effect that any self-employment income verification shall have on Petitioner's FAP case.

IT IS SO ORDERED.

JS/nr

  
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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**

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**Petitioner**

[REDACTED]  
MI

**Authorized Hearing Rep.**

[REDACTED]  
MI