



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: September 13, 2019  
MOAHR Docket No.: 19-008747  
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 September 11, 2019, from Lansing, Michigan. Petitioner, [REDACTED] [REDACTED] appeared and represented herself. Respondent, Department of Health and Human Services (Department), had Margaret Peterson-Young, Success Coach, appear on its behalf. Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A nine-page packet of documents provide by the Department was admitted collectively as the Department's Exhibit A.

### **ISSUE**

Did the Department properly deny Petitioner's request for replacement 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. On June 16, 2019, the Department was notified through a CPS investigation that Petitioner was residing at a shelter at [REDACTED] MI.
2. From July 21, 2019, to July 23, 2019, there was a power outage at [REDACTED] MI.
3. On August 1, 2019, Petitioner requested replacement FAP benefits. Petitioner submitted an affidavit in which she requested \$900.00 worth of FAP benefits for

food lost at [REDACTED] MI, during the power outage. Petitioner included a letter from DTE Energy addressed to [REDACTED] [REDACTED] which stated that there was a power outage at [REDACTED] MI, from July 21, 2019, through July 23, 2019.

4. The Department reviewed Petitioner's request and determined that Petitioner was not eligible for replacement FAP benefits because, according to the Department's records, Petitioner was living at a shelter at [REDACTED] MI.
5. The Department notified Petitioner that her request was denied.
6. On August 8, 2019, Petitioner filed a hearing request to dispute the Department's decision.

### **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) 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 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 is disputing the Department's denial of her request for replacement FAP benefits. The relevant policy is BAM 502, which provides that FAP benefit recipients may be issued replacement FAP benefits when food purchased with FAP benefits has been destroyed in a domestic misfortune or disaster timely reported. BAM 520 (July 1, 2017), p. 1. The replacement of FAP benefits is for food purchased with FAP benefits that has been lost at the FAP benefit recipient's household due to a household misfortune. 7 CFR 274.6.

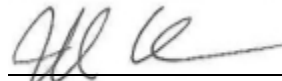
The Department denied Petitioner's request because Petitioner was living at a different address than the affected address according to its records. Petitioner's letter from DTE was not addressed to Petitioner, Petitioner's address on file with the Department was different than the affected address, and Petitioner did not provide any evidence to establish that she was living at the affected address at the time of the power outage. Thus, I must find that the Department properly determined that Petitioner was not living at the affected address at the time of the power outage. Since Petitioner was not living at the affected address at the time of the power outage, the Department properly denied Petitioner's request for replacement FAP benefits.

**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 act in accordance with its policies and the applicable law when denied Petitioner's request for replacement FAP benefits.

IT IS ORDERED the Department's decision is **AFFIRMED**.

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**

Denise Ezell  
3040 W Grand Blvd Ste 5-450  
Detroit, MI  
48202

Wayne 23 County DHHS- Pathways to  
Potential- via electronic mail

BSC4- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

**Petitioner**

[REDACTED]  
[REDACTED], MI  
[REDACTED]