



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: November 5, 2019
MOAHR Docket No.: 19-009923
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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 October 31, 2019, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Juanita Munoz, Hearing Facilitator.

ISSUE

Did the Department fail to process Petitioner's request for Food Assistance Program (FAP) benefit replacement?

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 FAP recipient.
2. In July 2019, Petitioner reported that she had experienced a power outage and that she suffered a loss of food.
3. On August 6, 2019, Petitioner submitted a letter from [REDACTED] indicating there was a power outage at her residence between July 21, 2019 and July 24, 2019 (Exhibit A, p. 17).
4. A request for FAP benefit replacement was never processed by the Department.

5. The Department did not issue a written decision to Petitioner regarding FAP benefit Replacement.
6. On [REDACTED], 2019, Petitioner submitted a request for hearing.

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 had notified her worker of a loss of food due to the power outage on July 25, 2019. Petitioner stated that she was advised she would need to obtain a letter from [REDACTED] verifying the power outage and submit it to the Department. Petitioner submitted a letter from [REDACTED] on August 6, 2019, indicating there was a power outage at her residence from July 21, 2019 through July 24, 2019. The Department testified that Petitioner did not submit a form requesting FAP benefit replacement with the letter from [REDACTED]. As a result, the request was not processed by the Department.

Department policies states that FAP recipients may be issued a replacement of food that has been destroyed in a domestic misfortune or disaster and reported timely. BAM 502 (July 2017), p. 1. Domestic misfortunes or disasters include events which occur through no fault of the client, such as fires, floods or electrical out-ages. BAM 502, p. 1. Replacements and reauthorizations are processed only if the client reports the loss timely. BAM 502, p. 1. Timely means within 10 days if the loss is due to misfortune or disaster. BAM 502, p. 1.

Policy does not require that a client submit a specific form to request FAP benefit replacement. Policy only requires that the loss be reported to the Department within 10 days of the loss. Petitioner timely reported the loss of food. Therefore, the Department failed to properly follow policy when it did not process Petitioner's request for FAP benefit replacement.

DECISION AND ORDER

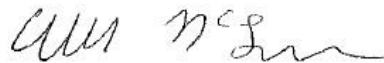
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it failed to process Petitioner's request for Food Benefit Replacement.

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. Reregister and reprocess Petitioner's [REDACTED] 2019 request for FAP replacement.
2. If Petitioner is eligible for FAP replacement, issue supplements to Petitioner that she was eligible for but did not receive for the July 21, 2019 through July 24, 2019 power outage.
3. Notify Petitioner of its decision in writing.

EM/cg



Ellen McLemore

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-41-Hearings
T. Bair
E. Holzhausen
BSC4- Hearing Decisions
MOAHR

Petitioner – Via First-Class Mail:

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