



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: October 31, 2019
MOAHR Docket No.: 19-010495
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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 24, 2019, from Lansing, Michigan. The Petitioner was represented by herself. Petitioner's husband [REDACTED] [REDACTED] also appeared and testified. The Department of Health and Human Services (Department) was represented by Lauri Williams, FIM. Department Exhibit 1, pp. 1-29 was received and admitted.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) case for failing to verify employment income?

FINDINGS OF FACT

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

1. In November 2018, Petitioner timely reported her loss of employment.
2. On May 28, 2019, Petitioner submitted redetermination paperwork.
3. On June 17, 2019, a verification checklist was sent to Petitioner requesting verification of loss of employment.
4. On July 20, 2019, Notice of Case Action was sent to Petitioner informing her that FAP was closing effective September 1, 2019 because verification of loss of employment for Petitioner was not received.

5. On [REDACTED] [REDACTED] [REDACTED] Petitioner requested hearing disputing the closure of FAP benefits.

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.

Send a negative action notice when:

- ☐ The client indicates refusal to provide a verification, **or**
- ☐ The time period given has elapsed and the client has **not** made a reasonable effort to provide it. BAM 130

In this case, Petitioner reported her loss of employment to the Department in November 2018 within 10 days of her loss of employment. No verification of loss of employment was requested at that time which was inconsistent with Department policy. On June 17, 2019, a Verification Checklist was sent to Petitioner requesting verification of loss of employment. Petitioner was understandably confused because she reported the loss of employment more than 6 months previous. The undersigned administrative law judge cannot find that Petitioner refused to provide needed verifications, therefore the closure for failing to provide verifications was improper and incorrect. BAM 130, 7 CFR 273.12

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 closed Petitioner's FAP case for failing to verify loss of employment.

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 going back to the date of closure.
2. Issue a supplement for any missed benefits.

AM/nr



Aaron McClintic
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

Tara Roland 82-17
8655 Greenfield
Detroit, MI
48228

Wayne 17 County DHHS- via electronic
mail

BSC4- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

Petitioner

[REDACTED]
[REDACTED]
[REDACTED], MI
[REDACTED]