



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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Date Mailed: November 21, 2019
MOAHR Docket No.: 19-011282
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: John Markey

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 November 18, 2019 from Detroit, Michigan. Petitioner appeared and represented himself. Also appearing on behalf of Petitioner was witness ██████████. The Department of Health and Human Services (Department) was represented by Natalie McLaurin, Hearings Facilitator. During the hearing, a 13-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-13.

ISSUE

Did the Department properly deny Petitioner's ██████████ 2019 Food Assistance Program (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 ██████████, 2019, Petitioner submitted to the Department an application for FAP benefits. On the application, Petitioner indicated that he was volunteering at a place called ██████████ and wanted that work to be used to satisfy his Time Limited Food Assistance work requirement. Exhibit A, pp. 4-6.
2. On ██████████ 2019, the Department issued to Petitioner a Verification Checklist requesting verifications related to Petitioner's assets and his community service obligations. Notably, the "Requested Proof" was a DHS-1997, which the

Department admittedly erroneously failed to issue to Petitioner. The proofs were due by September 16, 2019. Exhibit A, p. 7.

3. On [REDACTED], 2019, Petitioner submitted to the Department documents related to his volunteer time and his assets. However, they were not exactly what the Department was looking for. Exhibit A, p. 10.
4. On [REDACTED] 2019, the Department issued to Petitioner a Notice of Case Action informing Petitioner that his FAP application was denied as a result of his alleged failure to provide requested documentation. Exhibit A, pp. 8-9.
5. On [REDACTED] 2019, Petitioner submitted to the Department a request for hearing objecting to the Department's actions.

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 objects to the Department's denial of his [REDACTED], 2019 and application for FAP benefits. The application was denied based on the Department's determination that Petitioner failed to timely provide verifications requested on a [REDACTED], 2019 Verification Checklist.

Petitioner asserted on his application that he was doing 20 hours of self-initiated community service by volunteering at [REDACTED]. When he did so, the Department sent out the [REDACTED] 2019 Verification Checklist that purported to be a request for verification of Petitioner's volunteerism. Under the heading "Verification," the document stated "ABAWD Individual Regained Eligibility." Next to that was a heading "Requested Proof (Return one of the following):" Under that heading was one line that read "DHS-1997" and another line that read "Signed statement from community service provider." The Department did not provide Petitioner with a copy of the DHS-1997, which Ms. [REDACTED] acknowledged it was supposed to do.

Petitioner had until September 16, 2019 to return the requested proofs, to the extent that he could discern what was being requested. On [REDACTED], 2019, Petitioner submitted documentation related to his assets and a form detailing about ten days of his volunteer work at [REDACTED], which was signed by a supervisor. The Department did not accept his submission as a sufficient verification and denied his application via an [REDACTED], 2019 Notice of Case Action.

Verification of relevant, eligibility-related information is required at application. BAM 130 (April 2017), p. 1. Asset information is highly relevant in determining eligibility for FAP. BEM 400 (July 2019), p. 1. Additionally, as Petitioner was subject to the Time Limited Food Assistance work requirements and had exhausted his countable months, Petitioner had to show to the Department that he had met one of the requirements for regaining his eligibility. BEM 620 (January 2019), pp. 9-10.

To request verification of information, the Department sends a VCL which tells the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. For FAP cases, the Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verification that is required. BAM 130, p. 7. Verifications are considered to be timely if received by the date they are due. BAM 130, p. 7. The Department sends a negative action notice when: (1) the client indicates a refusal to provide a verification OR (2) the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130, p. 7.

The Department's vague request for verifications along with its failure to issue Petitioner a copy of the DHS-1997 compel the reversal of its [REDACTED], 2019 Notice of Case Action denying Petitioner's application. Even if the request was made in a remotely competent manner, Petitioner's [REDACTED] 2019 submission was sufficient to demonstrate that Petitioner made a reasonable effort to provide the documentation by the deadline. Since Petitioner neither indicated a refusal to provide the verification nor had the time period elapsed without Petitioner making a reasonable effort to provide the verification, per policy, the Department was prohibited from issuing a negative action notice.

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 denied Petitioner's [REDACTED] 2019 application for FAP benefits.

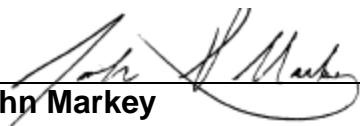
DECISION AND ORDER

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. Reprocess Petitioner's [REDACTED], 2019 FAP application;
2. If any eligibility-related factors remain unclear, inconsistent, contradictory, or incomplete, follow Department policy in issuing requests for verifications that specifically and clearly request the information required;
3. Determine Petitioner's eligibility for FAP benefits from the date of application, ongoing;
4. If Petitioner is eligible for additional FAP benefits, promptly issue any appropriate supplements; and
5. Notify Petitioner in writing of its decisions.

JM/tm



John Markey
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

Kathleen Verdoni
411 East Genesee
PO Box 5070
Saginaw, MI
48607

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

cc: FAP: M. Holden; D. Sweeney
Saginaw County AP Specialist (2)