



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], MI [REDACTED]

Date Mailed: December 6, 2019
MOAHR Docket No.: 19-011936
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 December 4, 2019, from Lansing, Michigan. Petitioner, [REDACTED], appeared and represented himself. Respondent, Department of Health and Human Services (Department), had Andrea Edwards, appear as its representative. Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 33-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

ISSUE

Did the Department properly deny Petitioner's request for 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 [REDACTED], 2019, Petitioner requested FAP benefits from the Department.
2. On August 9, 2019, the Department mailed a verification checklist to Petitioner with instructions to provide information about his checking account and pension to the Department by August 19, 2019. The verification checklist instructed Petitioner to provide "recent check stubs or a letter from the person/agency making the payments" as proof for "other unearned."

3. Petitioner received the verification checklist and understood that it was requesting proof of his pension payments. Petitioner gathered his bank statements because they showed the deposits of his pension payments. Petitioner mailed his bank statements to the Department as proof.
4. On August 21, 2019, the Department issued a notice of case action which notified Petitioner that his request for FAP benefits was denied because he did not provide proof of his pension payments as requested.
5. On October 25, 2019, Petitioner requested a hearing 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.

The Department denied Petitioner's request for FAP benefits because he did not provide requested verification. The Department must tell a client what verification is required, how to obtain it, and the due date. BAM 130 (April 1, 2017), p. 3. The Department must allow the client ten calendar days to provide requested verification. *Id.* at 7. Verifications must be received by the Department by the due date in order to be considered timely. *Id.* The Department must send a Negative Action Notice when either (a) the client indicates a refusal to provide a verification or (b) the due date lapses and the client has not made a reasonable effort to provide verifications. *Id.*

The Department sent Petitioner a verification checklist which instructed Petitioner what verification was required, how to obtain it, and the due date. Petitioner received the verification checklist and understood it was requesting information about his pension payments. Petitioner attempted to provide proof of his pension payments to the Department by providing his bank statements which showed the deposits of his pension payments.

The Department received Petitioner's proof and then denied his request because he did not provide paystubs or a statement from the person/agency making the payments. The Department's action was not in accordance with its policies. The Department's policies state that the Department should deny a request for FAP benefits for failure to provide verification only when an individual refuses to provide verification or fails to make a reasonable effort to provide verification. Petitioner did not refuse to provide

verification or fail to make a reasonable effort; to the contrary, Petitioner provided his bank statements in a reasonable effort to try to provide proof of his pension payments. Since Petitioner did not refuse to provide verification or fail to make a reasonable effort, the Department should not have denied his request for FAP benefits for failure to provide verification; the Department should have assisted Petitioner in obtaining the additional proof the Department desired.

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 its policies and the applicable law when it denied Petitioner's request for FAP benefits.

IT IS ORDERED the Department's decision is **REVERSED**. The Department shall begin to implement this decision within ten days.

JK/ml



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

Pam Assemany
220 Fort St.
Port Huron, MI 48060

St. Clair County DHHS – Via Electronic
Mail

BSC2 – Via Electronic Mail

M. Holden – Via Electronic Mail

D. Sweeney – Via Electronic Mail

Petitioner

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