



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: December 16, 2019
MOAHR Docket No.: 19-012200
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Janice Spodarek

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 December 11, 2019, from Lansing, Michigan. Petitioner personally appeared unrepresented. The Department of Health and Human Services (Department) was represented by Juanita Munoz, Hearings Facilitator.

ISSUES

- 1) Did the Department properly close Petitioner's FAP due to Petitioner's noncooperation with the Child Support office?
- 2) Did the Department properly close Petitioner's FAP due to Petitioner's failure to return bank verifications?

FINDINGS OF FACT

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

1. At all relevant times prior to the action herein, Petitioner was a FAP beneficiary.
2. In August 2019, Petitioner's FAP case was scheduled for a redetermination. On July 23, 2019, the Respondent issued a Verification Checklist requesting proof of bank statements.
3. Petitioner failed to return proof of the bank statements requested by the due date.
4. On August 28, 2019, the Respondent issued a Notice of Case Action informing Petitioner that she was being sanctioned effective September 1, 2019, as a member of the FAP group for failure to cooperate with child support requirements,

and closing the FAP case effective September 1, 2019, for failure to return bank verifications.

5. On November 8, 2019, Petitioner filed a hearing request disputing the FAP closure and her medical benefits. Petitioner stipulated at the hearing that she no longer disputes any 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.

In this case, applicable policy and procedure is found at BAM 130, 210 and 802, and BEM 135, 137, 255, and 400. Corresponding federal regulations are found at 7 CFR 271.8, 273.11, 273.4, 273.10, 273.14, and 273.2.

The purview of an Administrative Law Judge is to review the Department's action and to make a determination, if the evidence of record supports that action taken by the Department. After the Department meets its burden of going forward, Petitioner has burden of proof to show that the action is not supported by the evidence and is contrary to law or policy. ALJs do not have any jurisdiction to deviate from law or policy due to individual circumstances.

Issue 1)

Here, the Department issued a Notice of Case action informing Petitioner that due to her noncooperation with child support, she would be disqualified as a member effective September 1, 2019.

At the administrative hearing, the Respondent failed to present any evidence other than the Notice of Case Action with regard to the child support issue. The notice clearly states that the Department was sanctioning Petitioner's case effective September 1, 2019, due to her failure to cooperate with the child support office. However, there were no documents, no witnesses, no testimony, and no policy. The Department failed to meet its burden of going forward. Without any evidence of

noncooperation, the Department's action cannot be upheld. Thus, the action must be reversed.

Issue 2)

Unrefuted evidence of record is that Petitioner failed to return the required verifications. The Respondent clearly complied with its requirements to issue notice as to what was required and when it was due. The Department can be subject to financial penalties for failure to ensure that a welfare recipient's file contains all federally required verifications. Here, the Department followed its policy. Here, Petitioner failed to submit the requested verifications. Thus, the Department must be upheld on this issue.

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 present any evidence of having acted in accordance with Department policy when it sanctioned Petitioner on her FAP case for noncooperation with child support and thus, the Department's action on this issue pursuant to the Notice of Case Action is partially reversed.

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 acted in accordance with Department policy when it closed Petitioner's FAP case, due to Petitioner's failure to return the forms. Thus on this issue, the Department is partially affirmed.

Petitioner understands that she may reapply.

DECISION AND ORDER

Accordingly, the Department's decision is:

ISSUE 1) The Department failed to meet its burden of going forward regarding the child support sanction and thus on this issue, the Department is **REVERSED IN PART**.

ISSUE 2) Petitioner failed to meet her burden of proof regarding verifications and thus, the Department correctly closed Petitioner's FAP case effective September 1, 2019, and thus, the Department is **AFFIRMED IN PART**, with respect to the verification issue and FAP case closure.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN TEN DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Remove the child support sanction effective September 1, 2019, and

2. Close Petitioner's FAP benefits effective September 1, 2019, due to Petitioner's failure to verify, unless already completed by the Department.

JS/ml



Janice Spodarek
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

Jeanette Cowens
2524 Clark Street
Detroit, MI 48209

Wayne 41 County DHHS – Via Electronic
Mail

BSC4 – Via Electronic Mail

Child Support Office – Via Electronic Mail

M. Holden – Via Electronic Mail

D. Sweeney – Via Electronic Mail

Petitioner

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