



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: June 12, 2019
MOAHR Docket No.: 19-004807
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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 June 5, 2019, from Detroit, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Chukwuma Oguejiofor, Eligibility Specialist, and Candace Baker, Family Independence Manager. During the hearing, a 10-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-10.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefits case, effective May 1, 2019?

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 recipient of FAP benefits in a group that included her 18-year old daughter, [REDACTED].
2. In early 2019, [REDACTED] started training with employer [REDACTED] which did business as a [REDACTED]. On February 15, 2019, [REDACTED] received her first and last paycheck, which was for \$157.80. After that, [REDACTED] did not perform any more services for the employer.

3. Petitioner did not report the short-lived employment or minimal one-time income to the Department.
4. The Department received notification from a wage cross match system that a member of Petitioner's household had employment and wages that had not been reported to the Department.
5. On March 7, 2019, the Department issued to Petitioner a New Hire Client Notice form. Petitioner was informed that she had to fill out the form and return it to the Department by March 18, 2019 in order to avoid the closure of her FAP benefits case. The form could be filled out by either Petitioner or the employer. However, in bold, uppercase lettering, the Department stated, "**IF YOU DO NOT KNOW THIS INFORMATION, ASK YOUR EMPLOYER TO COMPLETE THIS FORM.**" Exhibit A, pp. 3-4.
6. Upon receiving the form, Petitioner brought it to the employer to be filled out because she did not know all of the information. Some time later, Petitioner reached out to the employer to ascertain whether or not the employer had filled out and returned the form. Petitioner was informed that the employer had lost the form. Petitioner then called the Department seeking to have the form replaced. However, Petitioner was for some time unable to get in contact with anyone.
7. On March 27, 2019, the Department issued to Petitioner a Notice of Case Action informing Petitioner that her FAP benefits case was closing, effective May 1, 2019, as a result of Petitioner's failure to verify the employment information. Exhibit A, pp. 6-9.
8. On [REDACTED], 2019, Petitioner submitted to the Department a request for hearing objecting to the closure of her FAP benefits case, effective May 1, 2019.

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 was an ongoing recipient of FAP benefits in a group that included her 18-year old daughter, [REDACTED]. [REDACTED] did a short period of training with an

employer doing business as a [REDACTED] in early 2019, resulting in a single February 15, 2019 paycheck totaling approximately \$157.80, which was not reported to the Department. The following month, the Department became aware of the employment and wages via an automated wage cross match system.

As income is highly relevant to determining FAP benefits and the Department had information that conflicted with what Petitioner had reported regarding the household income, the Department sought verification from Petitioner. On March 7, 2019, the Department issued to Petitioner a New Hire Client Notice form that was required to be filled out and returned to the Department by March 18, 2019. The form could be filled out by Petitioner or the employer. However, in bold, uppercase lettering, the Department stated, **"IF YOU DO NOT KNOW THIS INFORMATION, ASK YOUR EMPLOYER TO COMPLETE THIS FORM."**

Petitioner did not have the information necessary to complete the form so, upon receipt, she brought the form to the employer to fill it out and return it to the Department. The employer, unfortunately, lost the form. When Petitioner found that out, she reached out to the Department for assistance. However, that assistance was not forthcoming as her worker was out of town, and she was unable to get assistance from anyone else. Petitioner's FAP benefits case closed, effective May 1, 2019, as a result of Petitioner's failure to return the verifications.

A client's income or lack thereof is highly relevant in determining the client's level of FAP benefits. BEM 501 (October 2018), p. 6; BEM 550 (January 2017), p. 1; BEM 556 (April 2018), pp. 1-7. Department policy requires clients to cooperate with the local office in determining initial and ongoing eligibility, and this includes the completion of necessary forms like verifications related to starting or stopping employment. BAM 105 (January 2019), pp. 9, 14. Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. BAM 130 (April 2017), p. 1. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level or information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. BAM 130, p. 1. Verifications are considered timely if received by the date they are due. BAM 130, p. 7. The Department sends a negative case action when either (1) the client indicates a refusal to provide the verification or (2) the time period has elapsed and the client has not made a reasonable effort to provide the verification. BAM 130, p. 7.

Based on the information the Department had at the time, it was entirely appropriate for the Department to seek verifications related to Petitioner's household income. However, in order to take negative action for an alleged failure to provide verifications, the client must either indicate a refusal to provide the verifications or not have made a reasonable effort to provide the verification by its due date. Petitioner never indicated a refusal to provide the requested verifications. Additionally, Petitioner made a reasonable effort to provide the verification but was simply unable to do so because of a combination of factors, including the somewhat confusing format of the form, the employer's negligence, and the Department's failure to provide assistance when

Petitioner sought the same. Thus, neither of the conditions for sending negative action were present. Accordingly, it is concluded that the Department did not follow Department policy when issuing the March 27, 2019 Notice of Case Action closing Petitioner's FAP benefits case, effective May 1, 2019.

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 benefits case, effective May 1, 2019.

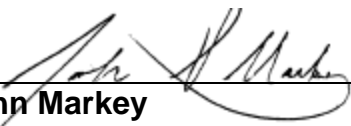
DECISION AND ORDER

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 case, effective May 1, 2019;
2. If Petitioner is eligible for additional FAP benefits, promptly issue a supplement;
3. If any necessary verifications have not been provided, follow Department policy in making any necessary requests; and
4. Notify Petitioner in writing of its decisions.

JM/cg



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 Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

Via Email:

MDHHS-Washtenaw-Hearings
M. Holden
D. Sweeney
BSC4- Hearing Decisions
MOAHR

Petitioner – Via First-Class Mail:

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