



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: July 31, 2019
MOAHR Docket No.: 19-006699
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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 July 25, 2019, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Amanda Mullens, Hearing Facilitator and Monique Perry, Eligibility Specialist.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefit case?

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 FAP recipient.
2. On April 19, 2019, the Department sent Petitioner a Verification Checklist (VCL) requesting verification of Petitioner's child's prepaid debit card (Exhibit A, pp. 1-2).
3. On [REDACTED], 2019, Petitioner submitted an application for FAP benefits (Exhibit A, pp. 3-10). With the application, Petitioner submitted verification of her consumer's bill, two of her prepaid debit cards, her child support card and her son's wages (Exhibit A, pp. 11-18).

4. On May 15, 2019, the Department sent Petitioner a Notice of Case Action informing her that her FAP benefit case was closing effective April 1, 2019, for her failure to submit verification of her child's prepaid debit card (Exhibit A, pp. 19-22).
5. On May 20, 2019, the Department sent Petitioner a VCL requesting verification of her child's prepaid debit card and loss of his employment (Exhibit A, pp. 23-24).
6. On May 31, 2019, Petitioner submitted verification of one of her child's prepaid debit cards, his wages and a Verification of Employment related to her son's loss of employment (Exhibit A, pp. 25-33).
7. On June 13, 2019, the Department sent Petitioner a Notice of Case Action informing her that the [REDACTED], 2019 FAP application was denied for her failure to submit verification of her child's prepaid debit card and proper verification of the loss of his employment (Exhibit A, pp. 44-47).
8. On June 21, 2019, Petitioner submitted a request for hearing disputing 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 was an ongoing FAP recipient. On April 19, 2019, the Department sent Petitioner a VCL requesting verification of her son's prepaid debit card. Proofs were due by April 29, 2019.

Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (April 2017), p. 1. To request verification of information, the Department sends a verification checklist (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 (April 2017), p. 7. Verifications are considered to be timely if received by the date they are due. BAM 130, p. 7. For electronically transmitted verifications (fax, email or Mi Bridges document upload), the date of the transmission is the receipt date. BAM 130, p. 7. Verifications

that are submitted after the close of regular business hours through the drop box or by delivery of a Department representative are considered to be received the next business day. BAM 130, p. 7. The Department sends a negative action notice when: the client indicates a 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, p. 7.

The Department testified that Petitioner did not submit verification of her son's prepaid debit card. As a result, the Department sent Petitioner a Notice of Case Action on May 15, 2019, informing her that her FAP benefit case was closing effective April 1, 2019.

As a result of the [REDACTED], 2019 application, the Department sent another VCL requesting verification of Petitioner's son's prepaid debit card and the loss of his employment on May 20, 2019. Proofs were due by May 30, 2019. The Department testified that Petitioner submitted verification of one of her son's prepaid debit cards, but he had a second card that was not verified. Additionally, the Verification of Employment lacked detail. As a result, the Department contacted Petitioner's son's employer. The Employer stated that they did not complete the Verification of Employment. As such, the Department denied Petitioner's [REDACTED] [REDACTED], 2019 application in the Notice of Case Action sent June 13, 2019.

Petitioner testified that she was not aware that the Department was requesting verification of both of her son's prepaid debit cards. Petitioner stated that she submitted verification of the prepaid debit card that her son currently uses. Petitioner testified that she provided the Verification of Employment to her son to have his employer complete.

The Department sends a negative action when the client indicates a refusal to provide a verification OR the time period given has elapsed and the client has not made a reasonable effort to provide it. Petitioner submitted numerous verifications to the Department. Petitioner clearly did not indicate a refusal to provide the verification and made a reasonable effort to comply with the requests for verification. Thus, the Department did not act in accordance with policy when it closed Petitioner's FAP benefit case.

DECISION AND ORDER

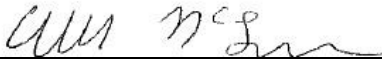
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it closed Petitioner's FAP benefit case.

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. Redetermine Petitioner's FAP eligibility as of April 1, 2019, ongoing;
2. If Petitioner is eligible for FAP benefits, issue supplements she is entitled to receive; and
3. Notify Petitioner of its decision in writing.

EM/cg



Ellen McLemore
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

Via Email:

MDHHS-Calhoun-Hearings
M. Holden
D. Sweeney
BSC3- Hearing Decisions
MOAHR

Petitioner – Via First-Class Mail:

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