



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: September 17, 2019
MOAHR Docket No.: 19-008681
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 September 11, 2019, from Lansing, Michigan. Petitioner personally appeared and testified unrepresented.

The Department of Health and Human Services (Department) was represented by Rinecka Thompson, ES Worker.

The Department's Exhibit A.17 was offered and admitted into the record.

ISSUE

Did the Department properly close Petitioner's FAP 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. At all relevant times, Petitioner has been a beneficiary of the FAP program.
2. On June 17, 2019 Petitioner called the Respondent and reported that her daughter had lost her job.
3. On June 27, 2019 the Respondent issued a verification checklist including requested verification for employment stop form for the employer, a DHS 0038, due June 27, 2019. Exhibit A. 15-16.
4. Petitioner asked for an extension on the due date that was granted.

5. On July 30, 2019 a review of the file showed that the verification of employment stop had not been received and the Respondent issued a Notice of Case Action closing FAP benefits effective September 1, 2019 and ongoing for the reason that verification of loss of employment was not received.
6. On August 5, 2019 Petitioner filed a hearing request.

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 is found primarily at BAM 105, 110-115. In all cases where an individual who is receiving welfare benefits alleges eligibility, that individual has the burden of proof by a preponderance of evidence.

Here, the Department contends that Petitioner failed to return the requested verification, triggering closure of her FAP case. Petitioner argues that her daughter worked for On Star and that Petitioner was unable to get the employer to cooperate with completing the form. Petitioner argues that her worker promised to engage in a 3-way conversation and ask the employer to verify stopped income. The Department argues that the only conversation it had with Petitioner was when she requested an extension. Furthermore, the Department worker argued that it is not a practice to engage in 3-way conversations although the Department might call the employer to attempt to get a 3rd party collateral contact.

After a careful review of the credible and substantial evidence of record, this ALJ actually found both witnesses credible. In such situations, where the evidence appears to be equivocal, the party who has the burden of proof loses.

Here, Petitioner presented no documentary evidence that [REDACTED] would not cooperate. The Department is under strong federal and state mandates to ensure that a welfare beneficiary's file contains all necessary verifications; failure to have such can subject the State of Michigan to significant financial penalties. The Department's evidence here shows that it correctly requested verifications as required by law and policy, and even gave Petitioner an extension to return the verifications. Petitioner had no evidence of

her request for assistance with the employer. Based on these facts, the Department's closure must be upheld.

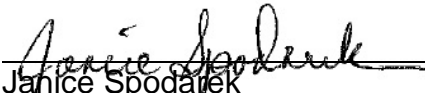
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it closed Petitioner's FAP case.

Petitioner understands that she may reapply.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

JS/nr



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

Chelsea McCune
27690 Van Dyke
Warren, MI
48093

Macomb 20 County DHHS- via electronic
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BSC4- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

Petitioner

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