



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: February 28, 2020
MOAHR Docket No.: 20-000624
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 February 27, 2020, from Lansing, Michigan. Petitioner, [REDACTED], appeared and represented himself. Respondent, Department of Health and Human Services (Department), had Lisa Mims-Jones, Family Independence Specialist, appear as its representative. Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 16-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefits effective December 31, 2019, for failure to provide a requested verification?

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 a FAP benefit recipient.
2. On December 2, 2018, the Department mailed a verification checklist to Petitioner with instructions for Petitioner to provide his last 30 days of check stubs and verification of employment for his employment at [REDACTED]. The Department instructed Petitioner to provide this information to the Department by December 12, 2019. The Department included a blank verification of employment form, which included a section that stated, "to be completed by employer."

3. Petitioner received the verification checklist from the Department. Petitioner had not worked for [REDACTED] since July or August of 2019. Petitioner completed the forms himself and returned them to the Department on December 12, 2019.
4. The Department received the forms that Petitioner returned to the Department. The Department reviewed them and noticed that Petitioner completed the form that was supposed to have been completed by [REDACTED]. Since the form was not completed by [REDACTED], the Department found it insufficient.
5. The Department closed Petitioner's FAP benefits for failing to provide a requested verification.
6. On January 16, 2020, Petitioner requested a hearing to dispute the closure of his 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) 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.

In this case, the Department closed Petitioner's FAP benefits because the Department was not satisfied with Petitioner's response to the Department's verification request. The Department must tell the 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 10 calendar days to provide the verification that is requested. *Id.* at 8. The Department must send a negative action notice if the client refuses to provide the requested verification or the client fails to make a reasonable effort to provide it before the due date lapses. *Id.* at 8-9.

Here, the Department did not act in accordance with its policies when it closed Petitioner's FAP benefits because Petitioner had not refused to provide requested information or failed to make a reasonable effort to provide requested information. Petitioner made a good faith effort to provide all documentation the Department requested from him. The Department requested information about his employment at a former employer, [REDACTED], and Petitioner completed the form to provide the information. Although one of the forms the Department provided to Petitioner said "to be completed by employer," it was not unreasonable for Petitioner to provide the

information since the Department did not provide clear instructions to have [REDACTED] complete the form and since Petitioner was no longer employed by [REDACTED]. If the Department was not satisfied with Petitioner's response, then the Department should have assisted Petitioner in obtaining the information it wanted. Petitioner's actions showed that he intended to provide the Department with all information it requested and that he made a good faith effort to do so.

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 closed Petitioner's FAP benefits effective December 31, 2019.

IT IS ORDERED the Department's decision is **REVERSED**. The Department shall begin to implement this decision within 10 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

Wayne (District 17) County DHHS – Via
Electronic Mail

M. Holden – Via Electronic Mail

D. Sweeney – Via Electronic Mail

Petitioner

██████████ – Via First Class
Mail
██████████
MI ██████████