



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: March 13, 2020  
MOAHR Docket No.: 20-001110  
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 March 9, 2020 from Detroit, Michigan. Petitioner appeared and was represented by Authorized Hearing Representative [REDACTED]. The Department of Health and Human Services (Department) was represented by Khaled Abouelazm, Family Independence Specialist. During the hearing, a 45-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-45.

**ISSUE**

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

Did the Department properly close Petitioner's FAP benefits case, effective January 1, 2020?

**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 from the Department.
2. On October 4, 2019, the Department issued to Petitioner a Redetermination form to gather relevant information regarding Petitioner's ongoing eligibility for FAP benefits. Petitioner was instructed to complete the form and return it to the

Department by November 1, 2019 in order to ensure that she received continuous benefits. Exhibit A, pp. 6-14.

3. Petitioner completed the Redetermination and placed it in the mail on October 17, 2019. The Department input the completed Redetermination into the Department's recordkeeping system on November 1, 2019. Exhibit A, pp. 6-14.
4. Petitioner was supposed to receive a call for a Redetermination interview on November 1, 2019. However, the Department never called Petitioner for the interview.
5. Shortly after the Department missed the scheduled interview, Petitioner began reaching out to her worker in an effort to ensure that the interview was completed and her case renewed. Eventually, on November 7, 2019, Petitioner was able to get the interview with the Department.
6. On November 7, 2019, the Department issued to Petitioner a Verification Checklist requesting documentation regarding Petitioner's assets and employment. Petitioner was instructed to procure the requested verifications and provide them to the Department by November 18, 2019. Exhibit A, pp. 15-17.
7. Petitioner did not submit any of the requested verifications concerning assets and employment by the deadline.
8. On November 21, 2019, the Department issued to Petitioner a Notice of Case Action informing Petitioner that her FAP case would be closing, effective December 1, 2019, as a result of Petitioner's failure to provide verifications with respect to her assets and employment. Exhibit A, pp. 18-22.
9. On December 1, 2019, Petitioner's FAP benefits case closed.
10. On [REDACTED] 2019, Petitioner submitted an application for FAP benefits. Exhibit A, p. 23.
11. On December 21, 2019, Petitioner submitted to the Department some of the requested verifications. However, no verifications related to employment were submitted.
12. On January 10, 2020, the Department issued to Petitioner a Notice of Case Action informing Petitioner that she was approved for [REDACTED] in FAP benefits from December 19, 2019 through December 31, 2019. Exhibit A, pp. 30-34.
13. On January 10, 2020, the Department issued to Petitioner a Verification Checklist requesting documentation regarding the alleged end of Petitioner's employment with All Ways Care Adult Day Care. Petitioner was instructed to procure the requested verifications and provide them to the Department by January 21, 2020. Exhibit A, pp. 35-36.

14. Petitioner did not submit the requested verifications concerning employment by the deadline.
15. On January 24, 2020, the Department issued to Petitioner a Notice of Case Action informing Petitioner that her FAP case was closed, effective January 1, 2020, as a result of Petitioner's failure to provide verifications with respect to her loss of employment at All Ways Care Adult Day Care. Exhibit A, pp. 41-45.
16. On [REDACTED] 2020, Petitioner submitted to the Department a request for hearing objecting to the Department's actions with respect to her 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, Petitioner objected to two Department actions taken with respect to her FAP benefits case. On November 21, 2019, the Department notified Petitioner that her FAP case was closing, effective December 1, 2019. On January 24, 2020, the Department notified Petitioner that her FAP case was closing, effective January 1, 2020.

### **CLOSURE, EFFECTIVE DECEMBER 1, 2019**

Petitioner was an ongoing recipient of FAP benefits. Her benefits were certified through the end of November 2019. On October 4, 2019, the Department issued to Petitioner a Redetermination form to gather relevant information regarding Petitioner's ongoing eligibility for FAP benefits. Petitioner was instructed to complete the form and return it to the Department by November 1, 2019. On November 1, 2019, Petitioner returned the completed form. On November 7, 2019, the Department issued to Petitioner a Verification Checklist requesting information relevant to determining her eligibility, including information concerning her assets and income. Petitioner was instructed to return the verifications to the Department by November 18, 2019 in order to avoid the closure of her FAP case. Petitioner returned nothing to the Department during that time. The Department then issued the November 21, 2019 Notice of Case Action closing Petitioner's FAP benefits case, effective December 1, 2019.

The Department must redetermine or renew a client's eligibility for FAP benefits by the end of each benefit period. BAM 210 (April 2019), pp. 1, 3. The redetermination process includes thorough review of all eligibility factors. BAM 210, p. 1. To initiate the redetermination process, the Department issues to clients the applicable redetermination form; that form must be completed and returned to the Department in a timely manner. BAM 210, p. 1. In order to certify a new benefit period, the Department must receive the completed form along with all required verifications. BAM 210, p. 12. If a redetermination is not completed and a new benefit period certified, FAP benefits stop at the end of the benefit period. BAM 210, p. 3.

Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130, p. 1. Additionally, the Department must obtain verification when information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. BAM 130, 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. 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.

As Petitioner's certified benefit period was set to expire at the end of November 2019, the Department properly initiated the redetermination process by issuing the October 4, 2019 Redetermination form. Petitioner timely returned the document, but the Department needed further verifications related to her assets and income. Accordingly, the Department issued the November 7, 2019 Verification Checklist requesting the missing information. Petitioner's failure to turn in those verifications either by the deadline on the document or before the end of her benefit period prevented the Department from being able to finish the redetermination process by the expiration of her benefit period. As the benefit period expired with the certification of a new benefit period, the Department had no choice but to close the case, effective December 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 acted in accordance with Department policy when it closed Petitioner's FAP benefits case, effective December 1, 2019.

### **CLOSURE, EFFECTIVE JANUARY 1, 2020**

After Petitioner's case closed, she submitted a new application for FAP benefits on [REDACTED] 2019. On December 21, 2019, Petitioner submitted the missing verifications related to her assets. However, Petitioner did not turn in anything related to income.

On January 10, 2020, the Department issued to Petitioner two related documents. One was a Verification Checklist requesting verification of Petitioner's assertion that she had lost her employment with [REDACTED]. Petitioner was instructed to provide the verification to the Department by January 21, 2020 to avoid closure of her FAP case. The other was a Notice of Case Action informing Petitioner that she was approved on an expedited basis for [REDACTED] in FAP benefits for the period from December 19, 2019 through December 31, 2019. The Notice of Case Action further informed Petitioner that "in order to receive benefits beyond the expedited benefit period, [the Department] needs [Petitioner] to provide the information requested on [the] Verification Checklist, sent separately. Failure to provide the required verification by the due date may result in a case reduction or closure."

Petitioner did not return the required verifications by January 21, 2020. On January 24, 2020, the Department issued to Petitioner a Notice of Case Action informing Petitioner that her FAP benefits case would be closing, effective January 1, 2020, for failing to return the requested verifications.

When certain conditions are present, the Department expedites the processing of FAP applications in order to help the neediest clients quickly. BAM 117 (January 2020), p. 1. When those conditions apply, the Department defers certain processing requirements and actions due to the shortened standard of promptness. BAM 117, p. 1. Groups that did not provide all required verifications will not be issued benefits for subsequent months until the FAP group provides the waived verifications or completes a redetermination. BAM 117, p. 5. However, groups that apply after the 15<sup>th</sup> of the month receive a minimum benefit period of two months (month of application and following month) if the client is eligible for expedited benefits for both months. BAM 117, p. 5. If waived verifications are not met by the 10<sup>th</sup> day following the request, take the required actions in Bridges timely to deny the ongoing FAP benefits for the remainder of the benefit period. BAM 117, p. 5. A timely notice is mailed at least 11 days before the intended negative action takes effect. BAM 220 (April 2019), p. 5.

Petitioner applied for FAP benefits on [REDACTED] 2019 and met the requirements for expedited service. The Department did not promptly process the application. When the Department finally did process the application, certain verifications were temporarily waived, and Petitioner was approved for FAP benefits. The Department then requested verifications, which were ultimately not provided. On January 24, 2020, the Department issued the Notice of Case Action informing Petitioner that her FAP case was closing, effective January 1, 2020.

Applying the rules governing expedited FAP service, it is clear that the Department erred in declaring Petitioner ineligible for FAP benefits all the way back to January 1, 2020. As Petitioner's application was filed after the 15<sup>th</sup> of the month, she was eligible through at least January 30, 2020. Additionally, when verification requirements are not met in a case like this, the Department must "**timely** deny the ongoing FAP benefits,"

which means that the notice is sent at least 11 days before the intended negative action takes effect. In this case, the notice was sent January 24, 2020 with an effective date of January 1, 2020. Thus, the notice was not timely, and the Department violated Department policy. It is worth noting that the strange timeline presented by this case only presented itself because the Department failed in the first instance to meet the standards of promptness applicable to Petitioner's application.

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 benefits case, effective January 1, 2020.

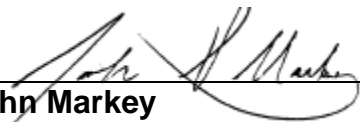
### **DECISION AND ORDER**

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to the December 1, 2019 FAP closure and **REVERSED IN PART** with respect to the January 1, 2020 FAP closure.

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 back to January 1, 2020 and provide the benefits unless and until the Department is able to take negative action without violating law or policy;
2. If Petitioner is eligible for additional benefits that were not provided, ensure that a prompt supplement is issued;
3. If any eligibility-related factors are unclear, inconsistent, incomplete, or contradictory, follow Department policy regarding verifications; and
4. Notify Petitioner in writing of its decisions.

JM/tm

  
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**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 Office of Administrative Hearings and Rules  
Reconsideration/Rehearing Request  
P.O. Box 30639  
Lansing, Michigan 48909-8139

**DHHS**

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**Petitioner**

[REDACTED]  
[REDACTED]  
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cc: FAP: M. Holden; D. Sweeney  
AP Specialist-Wayne County