



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: September 3, 2020
MOAHR Docket No.: 20-005020
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 2, 2020.

Petitioner appeared unrepresented.

The Department of Health and Human Services (Department) was represented by Anna Villarreal, ES, and Sara Terreros, APS.

Department Exhibit A.31 was offered and admitted into the record.

Petitioner did not offer any exhibits into the record.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (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 prior to the negative action herein, Petitioner was a beneficiary of FAP.
2. On April 28, 2020, the Department received a data match from the Treasury Department that Petitioner had begun a new job not previously reported.

3. On May 21, 2020, the Department issued a DHS-4635 and DHS-4635A New Hire Client Notices, and a Verification of Employment DHS-38, to Petitioner to complete with a June 1, 2020 due date.
4. On June 3, 2020, the Department issued a Notice of Case Action informing Petitioner that effective July 1, 2020, her FAP benefit case will close due to Petitioner's failure to verify requested information. Department Exhibit A.18-22.
5. On July 16, 2020, 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.

Applicable policy and procedure to the facts herein is found at BAM 105, 200, 220, 600, 807; BEM 500. Corresponding federal regulations are found at 7 CFR 273.10, and 273.2.

In this case, Petitioner argues that she faxed the verification to the Department and had proof of the fax. The Department argues that to date, the verification has not been received.

Here, Petitioner failed to submit to the Department, or at the administrative hearing, proof of the alleged fax she claims to have sent. Petitioner has had ample opportunity and time to submit the verification. On this basis alone, the Department's closure is supported by evidence of record, and thus, the Department's closure must be upheld.

It is noted that Petitioner testified that she sent paycheck verifications to the Department. The Department acknowledged that these were received after the initial verification due date. Even so, the Department indicated that policy does not allow the substitution of the pay stubs for a new hire form.

Petitioner also made multiple arguments about the number of case workers that have been assigned to her case and that her case has been mismanaged. It is well-established that Administrative Law Judges have no jurisdiction over the conduct of a state employee. However, even so, Petitioner's complaints regarding the conduct of a state employee

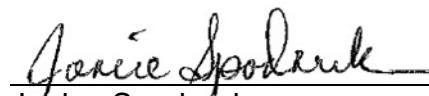
does not address the issue being reviewed herein - failure of Petitioner to comply with the verification request.

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 file effective July 1, 2020.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.

JS/ml



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

Kimberly Kornoelje
Kent County DHHS – via electronic mail

BSC3 – via electronic mail

M. Holden – via electronic mail

D. Sweeney – via electronic mail

Petitioner

[REDACTED] – via first class mail
[REDACTED] MI [REDACTED]