



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 25, 2020
MOAHR Docket No.: 20-005159
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 17, 2020. [REDACTED] the Petitioner, appeared on her own behalf. The Department of Health and Human Services (Department), was represented by Brad Reno, Eligibility Specialist (ES) and Hearing Facilitator.

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-69.

ISSUES

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

Did the Department properly determine eligibility for FAP when Petitioner re-applied on [REDACTED] 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. During a June 2019 Redetermination, Petitioner's address was confirmed. (Exhibit A, pp. 12-19)
2. On December 23, 2019, the Department received returned mail addressed to Petitioner. (Exhibit A, p. 20)

3. On April 28, 2020, a Verification Checklist was issued to Petitioner requesting address verification with a due date of May 8, 2020. (Exhibit A, pp. 24-25)
4. On May 8, 2020, the Department received returned mail addressed to Petitioner. (Exhibit A, pp. 28-29)
5. On May 14, 2020, a Notice of Case Action was issued to Petitioner stating the FAP case would close effective June 1, 2020, because the Department was unable to locate Petitioner and requested verification was not returned. (Exhibit A, pp. 30-34)
6. On May 27, 2020, the Department received returned mail addressed to Petitioner. (Exhibit A, p. 35)
7. On June 22, 2020, Petitioner submitted a written statement, rent receipts, and a landlord statement. (Exhibit A, pp. 36-38)
8. Petitioner was instructed to re-apply for FAP. (ES Testimony)
9. On [REDACTED] 2020, Petitioner re-applied for FAP. (Exhibit A, pp. 39-49)
10. On July 20, 2020, a Notice of Case Action was issued to Petitioner stating FAP was approved for July 10-31, 2020, in the amount of \$13.00 per month and for August 1, 2020 though June 30, 2022, in the amount of \$19.00 per month. (Exhibit A, pp. 50-54)
11. On August 7, 2020, Petitioner filed a hearing request contesting the Department's determinations for June, July, and August 2020 FAP benefits. (Exhibit A, pp. 7-11)

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.

Verification is to be obtained when information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory. The Department must tell the client what verification is required, how to obtain it, and the due date. The client must obtain required verification, but the Department must assist if the client needs and requests help. If neither the client nor the Department can obtain verification despite a reasonable effort, the

Department should use the best available information. If no evidence is available, the Department is to use their best judgment. BAM 130, April 1, 2017, pp. 1-3.

For FAP, the Department must allow a client 10 calendar days (or other time limit specified in policy) to provide the requested verification. A negative action notice is to be sent 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. If the client contacts the Department prior to the due date requesting an extension or assistance in obtaining verifications, the Department is to assist the client with the verifications but not grant an extension. BAM 130, p. 7.

In this case, the Department properly requested verification of Petitioner's address due to the returned mail. On April 28, 2020, a Verification Checklist was issued to Petitioner requesting address verification with a due date of May 8, 2020. (Exhibit A, pp. 24-25) Petitioner did not respond to the request for address verification. Rather, it appears that the verification checklist came back as returned mail on May 8, 2020. (Exhibit A, pp. 28-29) Petitioner had a responsibility to cooperate with the Department in determining initial and ongoing eligibility. This included a responsibility to report changes within 10 days, such as changes with address. Petitioner also had a responsibility to obtain verifications. BAM 105, October 1, 2019, pp. 9 and 11-14. The Department properly sent the request for address verification to the current address of record for Petitioner. When there was no response to the verification checklist by the due date, the Department properly issued the May 14, 2020, Notice of Case Action stating the FAP case would close effective June 1, 2020, because the Department was unable to locate Petitioner and requested verification was not returned. (Exhibit A, pp. 30-34)

Petitioner did not contact the Department until June 22, 2020, when she submitted a written statement, rent receipts, and a landlord statement. (Exhibit A, pp. 36-38) At that time, the FAP case had already closed. Petitioner was instructed to re-apply for FAP. (ES Testimony)

For FAP, the Department prorates benefits for the month of application beginning with the date of application when the group is eligible for the application month. BAM 115, October 1, 2019, p. 28. In this case, Petitioner re-applied for FAP on [REDACTED] 2020. (Exhibit A, pp. 39-49) On July 20, 2020, a Notice of Case Action was issued to Petitioner stating FAP was approved for July 10-31, 2020, in the amount of \$13.00 per month and for August 1, 2020 through June 30, 2022, in the amount of \$19.00 per month. (Exhibit A, pp. 50-54) Accordingly, the Department properly determined the start date for the approval of Petitioner's [REDACTED] 2020 FAP application.

Petitioner also disputed the amount of FAP benefits authorized for July and August 2020. (Exhibit A, p. 8) However, Petitioner's testimony indicated she did not disagree with the figures in the FAP budget, such as her income and shelter expense. Rather, Petitioner indicated she was contesting not receiving the COVID-19 supplemental FAP benefits for June, July, and August 2020. (Exhibit A, pp. 62-64; Petitioner Testimony) It is noted that after the hearing request was filed, the August 2020 COVID-19 supplement

was issued for Petitioner's FAP case. (ES Testimony) However, as indicated above, Petitioner did not have an active FAP benefit case for June 2020 and was only eligible for FAP for part of the month of July 2020 based on the [REDACTED] 2020 application date.

Due to COVID-19, supplemental FAP benefits are being issued for some months to households currently receiving FAP benefits to bring the case to the maximum monthly amount for the group size. A Memorandum from the Economic Stability Administration (ESA) indicates the approval was initially for two months, April and May 2020. Subsequently, approvals were made on a month by month basis and Michigan was approved to issue the additional benefits for each month from April through September 2020. This Memorandum indicates that the supplements are issued separately, later in the month. Further, there would be a need for "catch up jobs" to provide the supplement to cases opened "for" these months. The Memorandum is also clear that this is a supplemental emergency allotment, which does not change the eligibility determination. ESA 2020-15, as updated September 8, 2020. Because this is a supplemental benefit and not an eligibility determination, it is not a hearable issue. However, the ES credibly testified that an inquiry had already been sent to the policy unit to clarify whether a supplement should be issued when the FAP case was not opened for the full month. The ES indicated he would follow up with the request for this clarification.

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 terminated Petitioner's FAP case effective June 1, 2020, and when it determined Petitioner's eligibility for FAP when she re-applied on [REDACTED] 2020.

DECISION AND ORDER

Accordingly, the Department's decisions are AFFIRMED.

CL/ml



Colleen Lack

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

Tamara Morris
Genesee (Union St.) County DHHS – via
electronic mail

BSC2 – via electronic mail

M. Holden – via electronic mail

D. Sweeney – via electronic mail

Petitioner

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