



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: November 18, 2020

MOAHR Docket No.: 20-006290

Agency No.: [REDACTED]

Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 hearing was held via telephone conference. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Aqueelah Abdullah, Assistance Payment Worker.

ISSUE

Did the Department properly process Petitioner's request for a replacement Food Assistance Program (FAP) electronic benefit transfer (EBT) card?

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 is an ongoing recipient of FAP benefits.
2. On March 31, 2020, Petitioner called the Department's Bridge Card Customer Service telephone number to request a replacement EBT card.
3. Replacement cards were issued to Petitioner's residential address on April 15, 2020; May 29, 2020; and June 24, 2020 but were not deliverable and were returned to the sender (Exhibit A, p. 14).
4. On [REDACTED], 2020, the Department received Petitioner's request for hearing disputing the Department's failure to issue a replacement EBT card to her.

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.

Petitioner requested a hearing to dispute the Department's failure to issue a replacement EBT card to her. Generally, hearings are held to dispute the closure of a FAP case, the reduction in FAP benefits, or the current level of FAP benefits. BAM 600 (January 2020), p. 5. In this case, the Department testified that Petitioner continues to be an active FAP recipient, and in her hearing request Petitioner did not dispute the amount of her monthly benefits. However, because the lack of access to an EBT replacement card has limited Petitioner's ability to access her FAP benefits, the issue is considered.

BAM 401E (May 2020), p. 12 provides that all FAP benefits are deposited into the client's EBT food Bridge account. Clients must use the EBT card and personal identification number to access FAP benefits. BAM 400 (October 2018), p. 6. When a client reports that an EBT card is lost or stolen, Conduent, Inc, the Department's EBT vendor, immediately deactivates the current card and reissues a new one, for a fee, at the client's request. BAM 401E, p. 8. Replacement cards are mailed to the head of household's address. BAM 401E, p. 8. EBT cards can also be replaced by the local office. BAM 401E, p. 9.

Under federal policy, when a household has requested a fourth replacement card within a 12-month period, Conduent, Inc. must notify the household that any replacement cards will require that they go to the local office to speak directly to the district manager or county director to get another card. BAM 401E, p. 1. District managers or county directors must meet with the client in question, review the situation and explanation, and, based on this contact, make appropriate referrals and issue new EBT cards under their authority. 401E, pp. 1-2. The situation, referrals, and approvals must be recorded on the DHS-1054, Authorization to Approve Issuance of Electronic Benefit Transfer (EBT) Card, form and forwarded to the appropriate business service center (BSC) director. 401E, p. 2. Copies of the authorization documents must be stored in the local office and the case record for seven years either as a hard or scanned copy. 401E, p. 2.

The evidence in this case showed that Petitioner reported a lost EBT card on March 31, 2020. Three replacement cards were sent to Petitioner's residence, which was her address of record at the time, and each was returned as undeliverable. (Exhibit A, p. 14). Petitioner contacted her local office, and her worker forwarded Petitioner's request and contact number to the district manager and the program manager for the office (Exhibit A, p. 13). At the hearing, Petitioner testified that she spoke to the local office program manager, Ms. Howell, who told her she had to contact 1-844-799-9876. This number is the Department's MI Bridges Help Desk telephone number. Petitioner testified that she tried multiple times to call the number provided but a recorded message would tell her that there was a wait-time or it was after hours; she was not given the option to leave a message. Because Petitioner credibly testified that she reached out to the program manager and the policy charges the program manager with issuing FAP EBT replacement cards, the Department did not act in accordance with Department policy when it referred Petitioner to the Help Desk.

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 processed Petitioner's request for a FAP EBT replacement card.

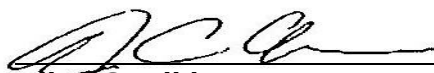
DECISION AND ORDER

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

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. Process Petitioner's request for a replacement card;
2. Complete the DHS-1054 and issue the replacement EBT card if Petitioner is eligible; and
3. Notify Petitioner in writing of its decision.

ACE/tlf



Alice C. Elkin

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

Via Email:

MDHHS-Wayne-31-Hearings
BSC4 Hearing Decisions
D. Sweeney
M. Holden
MOAHR

Petitioner – Via First-Class Mail:

[REDACTED]
[REDACTED]
[REDACTED]