



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

ORLENE HAWKS
DIRECTOR

[REDACTED]

Date Mailed: March 21, 2019
MAHS Docket No.: 19-001649
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jacquelyn A. McClinton

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 20, 2019, from Detroit, Michigan. Petitioner represented himself. The Department of Health and Human Services (Department) was represented by Richkelle Curney, Hearing Facilitator.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefits effective January 1, 2019 for exceeding the asset limit?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On November 23, 2018, Petitioner submitted a completed Redetermination.
2. The Redetermination did not reference a bank account that the Department had on file as belonging to Petitioner.
3. On January 22, 2019, the Department sent Petitioner a Verification Checklist (VCL) requesting proof of the status of the banking account. (Exhibit A, pp. 12-13).
4. On January 28, 2019, Petitioner submitted a letter indicating that she was not the primary account holder of the banking account. (Exhibit A, p. 15).
5. Petitioner also submitted banking account information in which she was listed at the top of the document. (Exhibit A, p. 18).

6. The Department determined that the letter from the banking official and another banking document were in conflict with one another.
7. The Department used the banking document showing assets in the amount of more than \$28,000.00 to determine her eligibility for FAP benefits.
8. On February 12, 2019, Petitioner filed a Request for Hearing after she attempted to use her FAP benefits and found that they were unavailable.
9. On February 13, 2019, the Department sent Petitioner a Notice of Case Action which notified Petitioner that her FAP benefits closed effective January 1, 2019.

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.

Additionally, the Michigan Department of Health & Human Services (MDHHS) must periodically redetermine or renew an individual's eligibility for active programs. The redetermination/renewal process includes thorough review of all eligibility factors. BAM 210 (January 20169), p. 1.

In this case, the Department testified that it closed Petitioner's FAP benefits due to excess assets. The Department explained that it had information on file that Petitioner was an account holder with [REDACTED]. When Petitioner failed to list this account on the Redetermination, she submitted on November 23, 2018, it sent a VCL requesting information associated with this account. (Exhibit A, pp. 12-13). The Department indicated that it received what it classified as a suspicious letter from the financial institution which indicated that she was not the primary account holder on the account. (Exhibit A, p. 15). Further, the Department stated that the banking document submitted by Petitioner listed her name at the top of the document and did not list any other names. (Exhibit A, p. 18). As a result, it used the balances listed on the banking document submitted listing Petitioner's name at the top of the document. That document listed assets in excess of \$28,000.00. The asset limit for FAP benefits is \$5,000.00. BEM 400 (January 2019), p. 5.

Petitioner explained that the document she submitted which lists only her name at the top of the document specifically lists her sister's name as the account holder with a balance of \$13,379.75 and another sister as the account holder with a balance of \$15,669.40. Petitioner testified that she unsuccessfully attempted to explain the document to her assigned case worker. Petitioner further indicated that she believed that she only needed to obtain correspondence indicating that she was not the primary account holder of the banking account and not that she also needed to provide the name of the primary account holder.

Petitioner's explanation of the document displaying her name at the top and referencing her sisters' names in the body of the document is plausible and accepted as true. Additionally, the Department failed to provide any information to dispute Petitioner's explanation of the document. As such, it is found that the Department improperly determined that Petitioner exceeded the asset limit allowed to receive FAP benefits.

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 effective January 1, 2019.

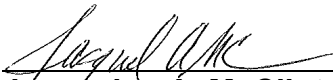
DECISION AND ORDER

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. Redetermine Petitioner's eligibility for FAP benefits effective January 1, 2019;
2. If Petitioner was eligible for FAP benefits, issue FAP supplements Petitioner was eligible for but did not receive effective January 1, 2019; and
3. Notify Petitioner of its decision in writing.

JAM/tlf



Jacquelyn A. McClinton
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 Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS 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. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MAHS Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

Via Email:

MDHHS-Wayne-17-Hearings
BSC4 Hearing Decisions
D. Sweeney
M. Holden
MAHS

Petitioner – Via First-Class Mail:

