



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: April 19, 2019
MAHS Docket No.: 19-002462
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 April 10, 2019, from Detroit, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Suzette Coklow, Eligibility Specialist. During the hearing, a 17-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-17.

ISSUE

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

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 or about November 1, 2018, Petitioner was issued a Notice of Case Action informing Petitioner that she was approved for FAP benefits through September 30, 2019.
3. Effective January 1, 2019, Petitioner's FAP benefits case closed. Petitioner was not provided with notice of the closure.
4. On [REDACTED], 2019, Petitioner submitted to the Department an application for benefits. Exhibit A, pp. 4-11.

5. On January 18, 2019, the Department issued to Petitioner a Verification Checklist (VCL) requesting Petitioner provide certain documentation necessary for determining Petitioner's eligibility for benefits. Petitioner was required to provide the requested verifications by January 28, 2019. Exhibit A, pp. 12-13.
6. On February 15, 2019, the Department issued to Petitioner a Notice of Case Action denying Petitioner's FAP application for allegedly failing to provide the required verifications. Exhibit A, pp. 14-17.
7. On [REDACTED], 2019, Petitioner submitted to the Department a request for hearing objecting to the Department's closure of her FAP case. Exhibit A, p. 3.

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 was an ongoing recipient of FAP benefits from the Department until the Department closed her case, effective January 1, 2019. A couple of weeks later, Petitioner submitted to the Department an application for benefits from the Department, which was ultimately denied for allegedly failing to return required verifications requested by the Department. On [REDACTED] 2019, Petitioner submitted a hearing request ***specifically objecting to the closure of her FAP case***, effective January 1, 2019.

Clients have the right to contest a Department decision affecting eligibility or benefit levels, including termination of program benefits, whenever the client believes the decision is incorrect. BAM 600 (October 2018), pp. 1, 5. When a hearing request is filed, the matter is transferred to the Michigan Administrative Hearing System (MAHS) for a hearing before an Administrative Law Judge. BAM 600, p. 1. In preparation for the hearing, the Department is required to send to MAHS and the client a hearing summary. BAM 600, pp. 9-10, 24. The hearing summary is required to include a clear, concise statement of the case action taken, a chronological summary of events, and citations to relevant law and policy, amongst other things. BAM 600, p. 10. Additionally, a hearing packet must be prepared to send along with the hearing summary. BAM 600, p. 10. The completed hearing packet must include, at a minimum,

the relevant Notice of Case Action and a copy of all documents the Department intends to offer to support its action. BAM 600, p. 10.

At the hearing, the Department representative and client are tasked with presenting their respective cases with reference to the documents provided in the hearing packet or otherwise properly served under the Michigan Administrative Rules. BAM 600, p. 37. After hearing the evidence, the Administrative Law Judge has the duty to review the evidence presented and based on that evidence, determine whether the Department met its burden of proving that the challenged actions were taken in compliance with law and Department policy. BAM 600, p. 39.

In this case, Petitioner submitted a hearing request objecting to the closure of her FAP case, effective January 1, 2019. The hearing summary provided by the Department stated, in full, as follows: "[REDACTED] submitted an application for HHC/FAP/CASH [REDACTED]/2019. Verification Checklist was generated 01/18/2019 for employment, unearned income and asset. Verification's were due 01/28/2019. They were not returned. Specialist generated denial notice 02/15/2019. See Exhibits I-IV." Exhibit A, p. 1. The hearing packet documents referred to in the hearing summary as Exhibits I-IV include the hearing summary; the request for hearing; a [REDACTED], 2019 application; a January 18, 2019 VCL; and a February 15, 2019 Notice of Case Action denying Petitioner's [REDACTED] 2019 application. Importantly, none of the documents related to the closure of Petitioner's FAP benefits case.

The Department bears the burden of showing that its challenged actions were taken in compliance with law and policy. To do so, the Department must at least explain why it took the action and provide documentary evidence of the action taken. The Department failed to do either. During the hearing, the Department could not explain why Petitioner's FAP case closed, effective January 1, 2019. Thus, the Department failed to meet its burden of proof and must be reversed.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Petitioner's FAP case, effective January 1, 2019.

DECISION AND ORDER

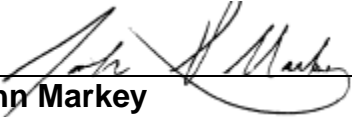
Accordingly, the Department's decision is **REVERSED**.

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. Reinstate Petitioner's FAP benefits case, effective January 1, 2019;

2. If any eligibility related factors are unclear, inconsistent, or contradictory, issue to Petitioner Verification Checklist(s) that clearly convey to Petitioner what it is the Department is requesting;
3. If Petitioner is eligible for additional FAP benefits, issue to Petitioner a supplement; and
4. Notify Petitioner in writing of its decisions.

JM/cg



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 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-31-Hearings
M. Holden
D. Sweeney
BSC4- Hearing Decisions
MAHS

Petitioner – Via First-Class Mail:

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