



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: August 16, 2019  
MOAHR Docket No.: 19-007551  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler**

**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 August 14, 2019, from Detroit, Michigan. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearings Facilitator.

**ISSUE**

Did the Department properly close Petitioner's Food Assistance Program (FAP) case for failure to verify her employment circumstances?

**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 June 4, 2019, the Department received Petitioner's Application for FAP benefits on which she noted that she did not have an active phone and could best communicate with the Department via email.
2. On June 7, 2019, the Department issued a Verification Checklist (VCL) to Petitioner requesting verification of home rent, wages from [REDACTED], and loss of employment from the same employer (most likely a typographical error on the VCL) with verifications due by June 17, 2019.

3. On the same day, the Department issued an Appointment Notice to Petitioner informing her that she was scheduled for an application interview on June 14, 2019 at 9:00 AM at the local Department office.
4. The interview actually took place on June 20, 2019 with Petitioner, her case worker, and her caseworker's supervisor.
5. At the time of the interview, Petitioner's deadline for submission of the requested verifications was extended to June 30, 2019.
6. On June 27, 2019, Petitioner emailed her caseworker and advised her that she had made multiple attempts to contact the human resources department at her former employer but had been unsuccessful and had not received any responses from them.
7. On June 28, 2019, Petitioner's new employer faxed verification of employment to the Department.
8. On July 3, 2019, Petitioner submitted proof of her new employment income for pay date June 21, 2019 to the Department.
9. On July 5, 2019, the Department issued a Notice of Case Action to Petitioner informing her that her FAP case would close (as she had been provided expedited food assistance for June 2019) because she failed to return requested verifications of loss of employment and wages.
10. On July 12, 2019, the Department received Petitioner's request for hearing disputing the closure of her FAP benefits based upon failure to verify her loss of employment.

### **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.

In this case, Petitioner disputes the Department's closure of her FAP case for failure to submit all requested verifications related to income. Policy provides that the Department usually requires verification of household circumstances at application, redetermination, or if there is a reported change. BAM 130 (April 2017), p. 1. Negative Action Notices are sent when a client indicates a refusal to provide a verification or the time period given has lapsed and the client has not made a reasonable effort to provide it. BAM 130, p. 7. Since income is used in determining program eligibility, the Department properly requested proof of this at application. BEM 500 (July 2017), p. 13.

Petitioner submitted proof of her first paycheck to the Department on June 28, 2019 as noted by Petitioner's caseworker's case comments and Petitioner's testimony in the hearing. Again the parties and evidence agree that Petitioner did not receive her second paycheck from her new employer until July 5, 2019, the same day the Notice of Case Action was mailed to Petitioner. However, the parties disagree as to when Petitioner provided proof of requested assistance with obtaining verifications for the loss of employment with her previous employer. During the hearing, Petitioner produced an email sent to her case worker on June 27, 2019, which was verified by the Hearings Facilitator during the hearing, indicating that she had attempted to contact her previous employer and had left a few voicemails with an email address for the human resources department at her previous employer. Policy provides that the client is required to obtain required verifications, but the local office must assist if they need and request help. BAM 130, p. 3. If neither the client nor the local office can obtain verification despite a reasonable effort, use the best available information. *Id.* If no evidence is available, use your best judgement. *Id.* Since Petitioner reached out to her caseworker before the due date indicating that she had made multiple attempts to contact her former employer with no success and had left voicemails, at this point, the Department should have considered Petitioner's email a request for assistance and made an effort to contact the former employer. Petitioner was making a reasonable effort and communicating with the Department about the status of her efforts. Therefore, denial of her FAP application was not in accordance with Department policy.

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 denied Petitioner's Application for FAP based upon a failure to verify employment related information.

### **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 and reprocess Petitioner's June 4, 2019 Application for FAP;
2. If otherwise eligible, issue supplements to Petitioner for FAP benefits not previously received; and,
3. Notify Petitioner in writing of its decision.



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**Amanda M. T. Marler**

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**

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

**Petitioner**

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

**cc:**

[REDACTED]  
[REDACTED]