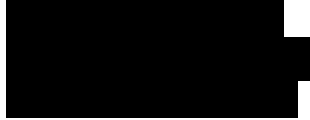




GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR



Date Mailed: October 4, 2019
MOAHR Docket No.: 19-009289
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Janice Spodarek

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 26, 2019, from Lansing, Michigan. The Petitioner appeared and testified unrepresented. The Department of Health and Human Services (Department) was represented by Johnnie Smith, FIS.

ISSUE

Did the Department properly process Petitioner's FAP replacement request?

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 August 1, 2019 Petitioner applied for FAP benefit replacement by uploading into bridges her application along with a letter from DTE.
2. The Department failed to issue a request for any necessary or outstanding verification(s).
3. On August 13, 2019 the Department denied Petitioner by issuing a letter titled "Quick Note" stating that the request for food replacement was denied for not sending the DTE letter within 10 days of the power outage.
4. On August 22, 2019 Petitioner filed a hearing request.

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.

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Department of Human Services) pursuant to MCL 400.10 and Mich Admin Code, R 400.7001-.7049.

In this case, applicable policy is found at BEM 502. Corresponding federal regulations are found at 7 CFR 274.6; 280.

Here, policy requires the applicant to submit the request within 10 days along with a letter verifying the outage within 10 days of the power outage.

Here, the Department stipulated that it failed to follow policy by failing to issue a verification checklist. Nevertheless, Petitioner testified that the letter from DTE was upload on the same date as the August 1, 2019 application.

Petitioner has the burden of proof by a preponderance of evidence. Here, evidence indicates that the DTE letter was dated August 1, 2019. Petitioner applied August 1, 2019. Petitioner alleges she uploaded both documents. The Department received Petitioner's application August 1, 2019. Both the Petitioner and the Department indicated that the bridges system is wrought with difficulties and many errors. Petitioner was a credible witness, and had specificity surrounding her explanation of the facts which adds to her credibility. The Department was also credible and admitted that it erred in not sending a verification checklist as required by policy. In addition, evidence of record indicates that oft times the bridges system fails to upload documents despite the sender receiving information that such was send. In addition, at times the bridges system does not allow users to open emails and see attachments.

Under these facts, and after a careful review of the credible and substantial evidence of record, this ALJ finds that the Departments denial is not supported by the evidence of record and thus, must be reversed.

DECISION AND ORDER

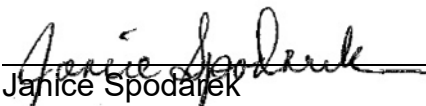
Accordingly, the Department's decision is **REVERSED**.

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 August 1, 2019 SER/ERM application for food assistance replacement, and
2. Reprocess Petitioner's application, and
3. Issue written notice to Petitioner and any supplement benefits to which Petitioner may be entitled under federal and state law, and in accordance with departmental policy.

IT IS SO ORDERED.

JS/nr



Janice Spodarek
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

Denise Ezell
3040 W Grand Blvd Ste 5-450
Detroit, MI
48202

Wayne Pathways to Potential- Wayne 23
County DHHS- via electronic mail

BSC4- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

Petitioner

