



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: October 21, 2019
MOAHR Docket No.: 19-010204
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 October 16, 2019 from Detroit, Michigan. Petitioner appeared and represented himself. The Department of Health and Human Services (Department) was represented by Natalie McLaurin, Hearings Facilitator. During the hearing, a 39-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-39.

ISSUE

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

Did the Department properly determine that Petitioner was not eligible for FAP benefits from August 1, 2019 through August 7, 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. On [REDACTED] 2019, Petitioner submitted to the Department an expedited application for FAP benefits. On the application, Petitioner provided a Post Office Box as his mailing address. Exhibit A, pp. 9-19.
2. Petitioner's expedited application was provisionally approved.

3. On July 2, 2019, the Department issued to Petitioner at the PO Box provided as a mailing address just one day earlier a Verification Checklist requesting verifications related to Petitioner's assets. The document instructed Petitioner to provide the required verifications by July 11, 2019 in order to prevent the closure of his FAP case. Exhibit A, pp. 20-21.
4. The July 2, 2019 Verification Checklist was returned to the Department as undeliverable. The envelope was stamped "BOX CLOSED-NO ORDER." Exhibit A, p. 24.
5. The Department did not receive the requested verifications by the deadline.
6. On July 24, 2019, the Department issued to Petitioner a Notice of Case Action informing Petitioner that his FAP case was closing, effective August 1, 2019 as a result of Petitioner's failure to provide the requested verifications regarding his assets. Exhibit A, pp. 22-23.
7. Petitioner discovered that his FAP case closed on or about August 7, 2019 when his card was declined.
8. On [REDACTED], 2019, Petitioner submitted to the Department another application for FAP benefits. Exhibit A, pp. 26-36.
9. On August 8, 2019, the Department issued to Petitioner a Notice of Case Action informing Petitioner that his FAP application was approved. Petitioner was found to be eligible for \$148 in FAP benefits from August 8, 2019 through August 31, 2019 and \$192 per month, effective September 1, 2019, ongoing. Exhibit A, pp. 37-38.
10. On [REDACTED] 2019 and [REDACTED] 2019, Petitioner submitted requests for hearing objecting to the Department's closure of his FAP case, effective August 1, 2019, and the Department's subsequent determination that Petitioner was not eligible for FAP benefits from August 1, 2019 through August 7, 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.

In this case, Petitioner objects to the Department's two determination that, together, render Petitioner ineligible for FAP benefits for the period from August 1, 2019 through August 7, 2019. Petitioner applied for FAP benefits on [REDACTED], 2019 and was approved on an expedited process. The following day, the Department issued a Verification Checklist to Petitioner at the address he had provided on the [REDACTED], 2019 application. Unbeknownst to Petitioner, his rights to that PO Box had been extinguished due to a failure to pay the bill to keep it open. Thus, Petitioner never received the Verification Checklist.

On July 24, 2019, the Department issued to Petitioner a Notice of Case Action informing Petitioner that his FAP case would be closing, effective August 1, 2019 for failing to provide the required verifications. On August 1, 2019, Petitioner's FAP case closed.

In order to be eligible for FAP benefits, a group must have countable assets of \$5,000 or less. BEM 400 (May 2018), p. 5. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130, p. 1. Additionally, the Department must obtain verification when information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. BAM 130, p. 1. To request verification of information, the Department sends a verification checklist (VCL) which tells the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. If the time period for providing the verifications passes without having provided the verifications, the Department issues a negative case action closing the case. BAM 130, p. 8.

In order to determine Petitioner's eligibility for FAP benefits, the Department had to verify that Petitioner's countable assets were under the limit for program eligibility. Accordingly, the Department issued the July 2, 2019 Verification Checklist to Petitioner's address of record. Petitioner did not provide the requested verifications, so the Department initiated closure of his FAP benefits case, effective August 1, 2019. In taking the described actions, the Department followed Department policy.

Petitioner did not get the Notice of Case Action closing his FAP case. He only found out that his case was closed on or about August 7, 2019, when he tried to use his FAP benefits only to discover that the expected allotment for that month had not been issued.

The following day, Petitioner submitted to the Department another application for FAP benefits. That same day, the Department issued a Notice of Case Action approving Petitioner for the maximum amount of benefits for September 2019, ongoing. The document further informed Petitioner that his benefits for August 2019 were approved but were prorated from the day of application through the end of the month. Thus, the

cumulative impact of this series of events was that Petitioner did not receive FAP benefits for the time period from August 1, 2019 through August 7, 2019.

When an individual files an application for FAP benefits and is eligible during the application month, the Department prorates benefits for the month of application, starting with the date of application. BAM 115 (April 2019), p. 28.

Petitioner applied on [REDACTED], 2019, and the Department granted Petitioner's application from the date of application, ongoing. In doing so, the Department followed Department policy.

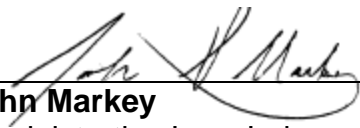
Petitioner's position essentially boils down to a fairness argument. In many ways, he presents a compelling and sympathetic case. Unfortunately, the arguments are equitable in nature. The undersigned Administrative Law Judge has no authority to make decisions on equitable grounds, no matter how compelling. Applying the law to this case compels only one possible conclusion, and that is a finding that the Department followed law and policy in making its decisions that led to Petitioner not receiving a FAP allotment for the time period of August 1, 2019 through August 7, 2019.

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 acted in accordance with Department policy when it closed Petitioner's FAP case, effective August 1, 2019, and subsequently determined that Petitioner was not eligible for FAP benefits from August 1, 2019 through August 7, 2019.

DECISION AND ORDER

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

JM/tm



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 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

Kathleen Verdoni
411 East Genesee
PO Box 5070
Saginaw, MI
48607

Petitioner

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

cc: FAP: M. Holden; D. Sweeney
Saginaw AP Specialist (2)