



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: November 21, 2019
MOAHR Docket No.: 19-011138
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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 November 14, 2019, from Lansing, Michigan. The Petitioner was represented by himself. [REDACTED] [REDACTED] appeared and testified for the Petitioner. The Department of Health and Human Services (Department) was represented by Mildred Wheeler Supervisor. Department Exhibit 1, pp. 1-10 was received and admitted.

ISSUE

Did the Department properly deny Petitioner's Food Assistance Program (FAP) application?

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 applied for FAP.
2. On [REDACTED] [REDACTED] a Verification Checklist was sent to Petitioner requesting income verification.
3. On September 24, 2019 Notice of Case Action was sent to Petitioner informing him that FAP was denied because "individual has used three TLFA countable months." (Ex.1, p.6)
4. On October 10, 2019, Notice of Case Action was sent to Petitioner informing him that FAP was denied because "you failed to verify or allow the Department to verify information necessary to determine eligibility for this program". (Ex. 1, p.8)

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.

To determine if an individual is obviously unfit for work, the MDHHS specialist must conduct an interview with the client. A discussion of the individual's inability to work or participate in work activities for more than 20 hours per week on an ongoing basis is required to make the determination. The discussion should focus on the physical and/or mental challenges that affect or impact the individual's inability to work.

Verify a medical deferral only in cases where the unfitness is not obvious to the specialist. Document in Bridges and set the review date accordingly. If questionable, a statement from a nurse, nurse practitioner, designated representative at a doctor's office, social worker, or other medical personnel may be accepted verification. If the impairment is not obvious, a MDHHS-54A, Medical Needs, or an MD/DO statement may be used. Verify receipt of RSDI based on disability or blindness and SSI. If an individual cannot obtain verification free of charge, use a MDHHS-93A, Medical Services Authorization/Invoice, to authorize payment for medical evidence. BEM 620

Obtaining Verification All Programs

Tell the client what verification is required, how to obtain it, and the due date. BAM 130

In this case, Petitioner alleged that he was disabled in his application for FAP benefits. A verification checklist was issued on September 5, 2019 that requested verification of income. The verification checklist should have instructed Petitioner what he needed to provide to establish a deferment from TLFA rules due to his health problems. BEM 620, BAM 130, 7 CFR 273.7 It was improper for the Department to deny Petitioner's application when he was not clearly instructed what he needed to verify. BAM 130

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 FAP application for failing to meet TLFA requirements and failing to verify income.


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 application going back to the date of application.
2. Issue a verification checklist to Petitioner that clearly instructs him what verification is required to establish deferral from TLFA rules due to health problems.
3. Issue a FAP supplement if Petitioner is found eligible for FAP.

AM/nr



Aaron McClintic
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

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Petitioner

[REDACTED]
MI