



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 26, 2019
MOAHR Docket No.: 19-011626
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on November 21, 2019, from Lansing, Michigan. Petitioner represented herself. The Department of Health and Human Services was represented by Sylvia Wallace and Angela Drost.

ISSUE

Did the Department of Health and Human Services (Department) properly determine Petitioner's eligibility for the Food Assistance Program (FAP)?

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 Food Assistance Program (FAP) recipient when the Department sent her a Redetermination Telephone Interview (DHS-574) form instructing her that a redetermination interview would take place at 8:00 a.m. on September 17, 2019. Exhibit A, pp 5-6.
2. Department records indicate that Petitioner's Redetermination (DSH-1010) form was received by the Department on September 18, 2019. Exhibit A, pp 8-16.
3. On October 8, 2019, the Department sent Petitioner a Verification Checklist (DHS-3503) with an October 18, 2019, due date. Exhibit A, pp 18-20.
4. On October 14, 2019, the Department sent Petitioner a Verification Checklist (DHS-3503) with an October 24, 2019, due date. Exhibit A, pp 22-23.

5. On October 14, 2019, the Department received verification that Petitioner's employment had ended after being laid off. Exhibit A, p 21.
6. The Department received verification that Petitioner received her last paycheck on October 18, 2019. Petitioner received earned income totaling \$2,007.78 in October of 2019. Exhibit A, p 29.
7. On October 18, 2019, the Department notified Petitioner that she was not eligible for Food Assistance Program (FAP) benefits as of October 1, 2019. Exhibit A, pp 59-64.
8. On October 22, 2019, the Department received Petitioner's request for a hearing. Exhibit A, p 4.

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.

Clients must cooperate with the local office in determining initial and ongoing eligibility and this includes the completion of necessary forms. Department of Human Services Bridges Assistance Manual (BAM) 105 (January 1, 2019), p 9.

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level when it is required by policy, required as a local office option, or information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. The Department uses documents, collateral contacts, or home calls to verify information. A collateral contact is a direct contact with a person, organization, or agency to verify information from the client. When documentation is not available, or clarification is needed, collateral contact may be necessary. Department of Human Services Bridges Assistance Manual (BAM) 130 (April 1, 2017), pp 1-10.

Respondent was an ongoing FAP recipient when the Department initiated a routine review of her eligibility for ongoing eligibility by sending her a Redetermination form and scheduling an interview for 8:00 a.m. on September 17, 2019.

Department records show that the Redetermination form was not received by the Department until October 18, 2019, but Petitioner testified that she dropped it off at the Department's office on October 17, 2019. Whether the form was filed on October 17, 2019, or October 18, 2019, the form was not available at 8:00 a.m. on October 17, 2019, and the interview could not be conducted at the originally scheduled time. On October 18, 2019, the Department notified Petitioner that she was not eligible for FAP benefits.

Later, the interview was conducted, and the Department received the information necessary to accurately determine and reinstate Petitioner's eligibility for ongoing benefits.


Petitioner reported during the interview that she had been laid off and that her earned income was ending in October of 2019. Petitioner's ending income was applied towards her eligibility for FAP benefits in October, and ongoing FAP benefits without earned income. Although Petitioner received a closure notice for October of 2019, her FAP benefits were reinstated, and by November of 2019, she remains eligible for FAP benefits based on no earned income. Petitioner did not dispute the Department's determination of her unearned income.

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 Food Assistance Program (FAP) benefits for failure to complete the redetermination process in a timely manner, and then properly reinstated her benefits after the redetermination was completed.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.

KS/hb



Kevin Scully
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

Kimberly Kornoelje
121 Franklin SE
Grand Rapids, MI 49507

Kent County, DHHS

BSC3 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

[REDACTED]
[REDACTED], MI [REDACTED]