



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: December 18, 2019
MOAHR Docket No.: 19-012130
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 hearing was held on December 11, 2019, from Lansing, Michigan. Petitioner appeared unrepresented. The Department of Health and Human Services (Department) was represented by Mark Boyd, FIM. Petitioner's worker who has personal knowledge of this case did not appear and was not available for testimony and/or cross-examination.

ISSUE

Did the Department properly process Petitioner's [REDACTED], 2019 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 filed for FAP benefits.
2. On November 6, 2019, Petitioner's worker called Petitioner in a panic, at work, at 2:30 in the afternoon, and verbally represented that she needed multiple verifications by Friday, or Petitioner's FAP case would be denied. Petitioner's worker indicated that she has over 800 cases. Petitioner delivered by fax, all the required verifications as she understood the Department to be requesting.
3. On November 7, 2019, Petitioner filed a hearing request.
4. On November 6, 2019, the Respondent mailed a verification checklist to Petitioner with multiple verifications due November 18, 2019.

5. To date, the Department has not processed Petitioner's [REDACTED], 2019 FAP application

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.

Applicable policies and procedures to the case here are found in multiple policies in the Department's BAM and BEM manuals. Correspondent federal regulations are found primarily at 7 CFR 173.2.

The purview of an Administrative Law Judge is to review the Department's action and to make a determination, if the evidence of record supports that action, taken by the Department. After the Department meets its burden of going forward, Petitioner has burden of proof to show that the action is not supported by the evidence and is contrary to law or policy.

Here, the Department admits that it failed to timely process this case. However, admitting to the failure of the Department to timely process this case is not sufficient to meet its burden of going forward at an administrative hearing. Here, the evidence is that Petitioner applied on [REDACTED], 2019. The first contact Petitioner had from the Department regarding her application was a November 6, 2019 phone call, urging Petitioner verbally, to fax in verifications. Petitioner did so, but was not aware that she had to send in gross wages. Petitioner delivered net wages through the Netspenz system. No interview and no checklist were issued to Petitioner. The Department submitted a Verification Checklist, which Petitioner did not have in her possession as of the November 6, 2019 verbal phone contact, as it was not mailed from the Department offices until that very date.

The Department argues that Petitioner is at fault, as the Verification Checklist clearly indicates that paystubs are required, which would show gross wages. Again, Petitioner did not have a checklist mailed to her at the time of the November 6, 2019 phone call, when that Department worker indicated she would close Petitioner's case. And while the checklist has a due date of November 18, 2019, Petitioner credibly testified that her worker indicated that if they were not all delivered by November 8, 2019, the FAP

application would be denied. This was the reason that Petitioner filed the hearing request on November 7, 2019—the next day.

Petitioner was a credible witness.

In addition, the Department, to date, has failed to process Petitioner's application. Petitioner was not informed until just before the administrative hearing, that the Netspenz was not acceptable.

Here, the evidence does not support finding that the Department has met its burden of going forward. Thus, the failure of the Department to process Petitioner's FAP case must be reversed.

DECISION AND ORDER

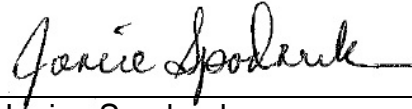
Accordingly, the Department's decision is **REVERSED**.

THE DEPARTMENT IS ORDERED **TO BEGIN DOING** THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN TEN DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. If not already done, reinstate Petitioner's [REDACTED], 2019 FAP application date into its Bridges system, and
2. Issue a Verification Checklist to Petitioner with any outstanding verification(s), giving Petitioner ten days to return the verifications, and
3. Reprocess Petitioner's FAP eligibility, and
4. Issue written notice to Petitioner, informing her of the outcome of her [REDACTED], 2019 FAP application.

Petitioner shall retain a right to another hearing for 90 days from date of the new notice, relating back to the [REDACTED], 2019 application date, should Petitioner dispute the Department's determination.

JS/ml



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

Richard Latimore
4733 Conner
Detroit, MI 48215

Wayne (57) County DHHS – Via
Electronic Mail

BSC4 – Via Electronic Mail

M. Holden – Via Electronic Mail

D. Sweeney – Via Electronic Mail

Petitioner

[REDACTED]
[REDACTED]
[REDACTED], MI [REDACTED]