



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR



Date Mailed: January 9, 2020
MOAHR Docket No.: 19-012744
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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 January 6, 2019, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Cheresse Butler, Family Independence Specialist and Aretha Pomilee-Mathaws, Eligibility Specialist.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefit case?

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 FAP recipient.
2. On [REDACTED], 2019, Petitioner applied for State Emergency Relief (SER) benefits.
3. On September 23, 2019, the Department sent Petitioner a Verification Checklist (VCL) requesting verification of her son's income from employment (Exhibit A, pp. 14-15).
4. On October 11, 2019, the Department sent Petitioner a Notice of Case Action (NOCA) informing her that her FAP benefit case was closing (Exhibit A, pp. 20-22).

5. On November 27, 2019, Petitioner submitted a request for hearing disputing the Department's actions related to her FAP and Family Independence Program (FIP) benefit cases.

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).

FIP

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Department of Human Services) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101-.3131.

Policy states that the Michigan Office of Administrative Hearings and Rules may grant a hearing about any of the following: (i) denial of an application and/or supplemental payments; (ii) reduction in the amount of program benefits or service; (iii) suspension or termination of program benefits or service; (iv) restrictions under which benefits or services are provided; (v) delay of any action beyond standards of promptness; or (vi) for FAP only, the current level of benefits or denial of expedited service. BAM 600, p. 5.

In this case, Petitioner requested a hearing related to her FIP benefit case. Petitioner submitted an application for FIP benefits on [REDACTED], 2019. On October 11, 2019, the Department sent Petitioner a NOCA informing her that her FIP application was denied. However, subsequent to the hearing request, the Department reinstated Petitioner's FIP application and she was approved for benefits as of November 1, 2019, ongoing (Exhibit A, pp. 25-26). Petitioner alleged that she submitted a previous application that was denied. However, in the request for hearing, Petitioner made no mention of a denied application. Petitioner only indicated that she wanted a hearing related to her FIP benefit case and that she had an issue with her case being transferred from Macomb County to Wayne County. The Department presented sufficient evidence that Petitioner's application for FIP benefits had been approved, and therefore, there was no negative action. As such, Petitioner's request for hearing related to her FIP benefit case is **DISMISSED**.

FAP

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 was an ongoing FAP recipient. On [REDACTED], 2019, Petitioner submitted a SER application. Petitioner reported that her adult son was in the home. On September 23, 2019, the Department sent Petitioner a VCL requesting verification of Petitioner's son's income. The Department stated that Petitioner's son was included in her FAP group, as she had reported that they were purchasing and preparing food together.

FAP budget calculations require the consideration of the group size. The Department will determine who must be included in the FAP group prior to evaluating the non-financial and financial eligibility of everyone in the group. BEM 212 (January 2017), p. 1. The FAP group composition is established by determining all of the following: who lives together, the relationship(s) of the people who live together whether the people living together purchase and prepare food together or separately, and whether the person(s) resides in an eligible living situation. BEM 212, p. 6. Living with means sharing a home where family members usually sleep and share any common living quarters such as a kitchen, bathroom, bedroom or living room. Persons who share only an access area such as an entrance or hallway or non-living area such as a laundry room are not considered living together. BEM 212, p. 3. The phrase, purchase and prepare together, is meant to describe persons who usually share food in common. BEM 212, pp. 5-6. Persons usually share food in common if any of the following conditions exist: they each contribute to the purchase of food, they share the preparation of food, regardless of who paid for it or they eat from the same food supply, regardless of who paid for it. BEM 212, p. 6. In general, persons who live together and purchase and prepare food together are members of the FAP group. BEM 212, p. 6.

Petitioner acknowledged that she had previously reported that her son was living in the home, and that they were purchasing and preparing food together. Therefore, the Department acted in accordance with policy when it included Petitioner's son in the FAP group and requested verification of his income.

The Department testified that Petitioner's FAP benefit case was closed due to Petitioner's failure to return verification of her son's income. The VCL requesting verification of Petitioner's son's income was sent on September 23, 2019. Proofs were due by October 3, 2019.

Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (April 2017), 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. For FAP cases, the Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verification that is required. BAM 130 (April 2017), p. 7. Verifications are considered to be timely if received by the date they are due. BAM 130, p. 7. For electronically transmitted verifications (fax, email or Mi Bridges document

upload), the date of the transmission is the receipt date. BAM 130, p. 7. Verifications that are submitted after the close of regular business hours through the drop box or by delivery of a Department representative are considered to be received the next business day. BAM 130, p. 7. The Department sends a negative action notice when: the client indicates a refusal to provide a verification OR the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130, p. 7.

Petitioner acknowledged that she did not return verification of her son's income. Therefore, the Department acted in accordance with policy when it closed Petitioner's FAP benefit case.

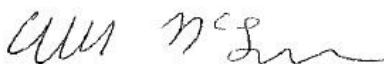
It should also be noted that the Department had transferred Petitioner's benefit cases from ██████ County to ██████ County. Petitioner had reported to the Department that she was physically residing in ██████ Michigan but used her mother's address in ██████ Michigan as her mailing address. The Department testified that Petitioner's case had been subsequently transferred back to ██████ County for the hearing but was scheduled to return to ██████ County after the conclusion of the hearing. For FAP and FIP benefits, applications are processed by the local office serving the county or district where the group lives. BAM 11 (October 2019), p. 18. Petitioner acknowledged at the hearing that she physically resides in ██████ and has lived there since September 1, 2019. Petitioner resides in ██████ Michigan. Therefore, Petitioner's case was properly transferred to ██████ County.

DECISION AND ORDER

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

Petitioner's request for hearing related to her FIP benefit case is **DISMISSED**.

EM/cg



Ellen McLemore
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

Via Email:

MDHHS-Macomb-20-Hearings
B. Sanborn
B. Cabanaw
M. Holden
D. Sweeney
BSC4- Hearing Decisions
MOAHR

Petitioner – Via First-Class Mail:

