



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR



Date Mailed: February 21, 2020
MOAHR Docket No.: 20-000376
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 telephone hearing was held on February 13, 2020, from Lansing, Michigan. The Petitioner appeared unrepresented. The Department of Health and Human Services (Department) was represented by Eileen Cott, FIM, Gratiot 7 office, and Greydale office, Angela Gaddis, APW.

ISSUE

Did the Department properly close Petitioner's FAP benefits and properly issue CDC benefits?

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 December 16, 2019, the Department issued a Notice of Case Action informing Petitioner that her back Child Day Care benefits (CDC) was approved for her three children, and ongoing. Effective January 1, 2020 and ongoing, Petitioner's FAP will close due to failure to verify stopped income.
2. Since 2016, Petitioner has had 14 different jobs, each lasting an average of 22 days. Exhibit A.25.
3. On November 20, 2019, the Department paid \$2,835.00 in back CDC benefits payments, and on December 4, 2019, the Department paid \$2,325.00 in CDC back benefits to the day care center where Petitioner's children stay, on behalf of Petitioner, totaling \$5,160.00. Exhibit B.

4. Verification of Petitioner's lease in November 2019, dated July 26, 2019, indicates that Petitioner leases her property to her spouse. Petitioner had not reported that her spouse was not living with her.
5. On January 27, 2020, Petitioner filed a hearing request stating: "...requesting an emergency hearing." Exhibit A.3.
6. At a prehearing conference held on January 21, 2020, Petitioner did not clarify her living arrangements with her spouse.

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 FAP federal regulations to the issue(s) herein are found primarily at 7 CFR 273.2. Corresponding Department policy is found primarily at BAM 105, 130; and BEM.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

As a beneficiary or applicant for welfare benefits, the party alleging eligibility has the burden of proof by a preponderance of evidence. Here, that burden falls on Petitioner. However, in beneficiary administrative hearings, the Department has the burden of going forward.

At the administrative hearing, Petitioner requested that the undersigned review her CDC and her FAP benefits.

Regarding the CDC, Petitioner argued that the Department had not paid her CDC since September 2019 and owed her for the months from September 2019 through December 2019 for CDC benefits for her children. During a recess, the Department obtained

information for the State computer system showing that on November 20, 2019, the Department paid \$2,835.00 in back CDC benefits payments, and on December 4, 2019, the Department paid \$2,325.00 in CDC back benefits on behalf of Petitioner totaling \$5,160.00. Exhibit B.

When Petitioner was asked why she failed to acknowledge the payments, Petitioner argued that the Department still owed her all the benefits, as the CDC benefits were paid on her behalf to her child day care center where her children attend, and not directly to Petitioner. Petitioner was not a credible witness.

Regarding the FAP benefits, the Department argued that Petitioner failed to verify stopped income from a job in 2017. Petitioner argued that it was from 2017. The Department indicated that at review, the Department has the authority to request verification from a prior job when Petitioner had not complied with prior verification request(s). At one point, the Department indicated that the prior verification may have been superseded by a subsequent reapplication; however, evidence of record in Exhibit A indicates that Petitioner's December 16, 2019, FAP denial was based on a review and not a new application. Petitioner has the burden of proof. The Department met its burden of going forward; Petitioner failed to meet her burden of proof. The evidence of record supports the closure of the FAP due to Petitioner's failure to verify the stopped income.

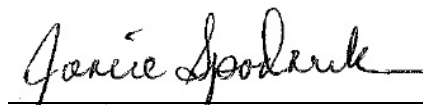
In the alternative, the Department indicated that Petitioner was not eligible for continuing FAP benefits for multiple alternative reasons.

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 benefits and paid out \$5,160.00 in CDC benefits.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.

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

Wayne (District 76) County DHHS – Via
Electronic Mail

M. Holden – Via Electronic Mail

D. Sweeney – Via Electronic Mail

L. Brewer-Walraven – Via Electronic Mail

Petitioner

[REDACTED] – Via First Class Mail
[REDACTED] MI [REDACTED]