



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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

Date Mailed: May 18, 2020
MOAHR Docket No.: 20-002135
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, telephone hearing was held on May 13, 2020, from Lansing, Michigan. Petitioner represented herself. The Department was represented by Jerica Hall and Nicole Anderson.

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 is an ongoing Food Assistance Program (FAP) recipient as a household of two and her eligibility for ongoing benefits was redetermined in December of 2019.
2. On December 27, 2019, the Department notified Petitioner that she was eligible for a \$16 monthly allotment of Food Assistance Program (FAP) benefits as a household of two effective January 1, 2020. Exhibit A, pp 6-10.
3. On January 22, 2020, Petitioner called her caseworker questioning whether her Food Assistance Program (FAP) benefits had closed, and the worker attempted to call her back. Petitioner's caseworker sent Petitioner an email explaining that her benefits had not closed.
4. On February 25, 2020, Petitioner met with her caseworker's supervisor.

5. On February 25, 2020, the Department sent Petitioner a Verification Checklist (DHS-3503) requesting verification of shelter expenses and income by March 6, 2020. Exhibit A, pp 12-13.
6. On March 2, 2020, the Department received the verification documents requested by the Department. Exhibit A, p 14.
7. On March 2, 2020, the Department attempted to request supplemental Food Assistance Program (FAP) benefits for Petitioner, but a supplement was denied by the help desk. Exhibit A, p 15.
8. Petitioner has been employed since October 3, 2019, and received earned income from October 16, 2019, through March 4, 2020. Exhibit A, pp 18-20.
9. On [REDACTED] [REDACTED] the Department received Petitioner's verbal request for a hearing protesting the amount of her monthly Food Assistance Program (FAP) allotment. Exhibit A, pp 3-5.

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 (October 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.

Petitioner was an ongoing FAP recipient on January 22, 2020, when she left a message for her caseworker asking why her benefits had closed. The Department's witness testified that she attempted to return the call and sent Petitioner an email because Petitioner's voice mailbox was full.

On February 25, 2020, Petitioner met with her caseworker's supervisor. On February 25, 2020, the Department sent Petitioner a Verification Checklist (DHS-3503) requesting verification of the changes reported on February 25, 2020. Petitioner provided these verification documents on March 2, 2020.

Although Petitioner received a paycheck with a decrease of earned income on January 22, 2020, the evidence supports a finding that Petitioner had inquired about her benefits closing and not decreased income. Petitioner's caseworker attempted to call Petitioner and responded by email when Petitioner's voice mailbox was full.

The evidence supports a finding that Petitioner reported changes when she met with her caseworker's supervisor on February 25, 2020. Verification of the changes was requested that same day, and Petitioner returned the verification documents in a timely manner.

The Department evaluates the circumstance of start/change date, the date the change was reported on, the date verification was received on, and the date client became aware of the change to determine positive action dates, negative action dates and effective dates. See BEM 505, Prospective Budgeting/Income Change Processing, for policy regarding effective dates for income changes. Department of Health and Human Services Bridges Administrative Manual (BAM) 220, pp 8-9.

Income decreases that result in a benefit increase must affect the month after the month the change is reported or occurred, whichever is earlier, provided the change is reported timely. Do not process a change for a month earlier than the month the change occurred. Supplements are not issued to correct under issuances caused by the group's failure to report timely. Department of Health and Human Services Bridges Eligibility Manual (BEM) 505 (October 1, 2017), p 10.

Based on the evidence and testimony available during the hearing, this Administrative Law Judge finds that Petitioner reported a decrease of earned income on February 25, 2020 and provided verification of that change within 10 days. Petitioner was entitled to a benefit increase the month after the month the change was reported, as directed by BEM 505, even though verification of the income decrease was not received until March 2, 2020. The evidence supports a finding that the Department requested a March supplement, but no evidence was offered on the record to explain why this supplement could not be issued.

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 failed to issue supplemental Food Assistance Program (FAP) benefits effective March 1, 2020.

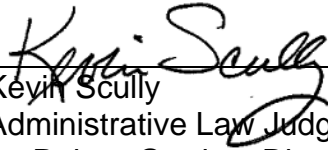
DECISION AND ORDER

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. Initiate a determination of the Petitioner's eligibility for the Food Assistance Program (FAP) as of March 1, 2020.
2. Provide the Petitioner with written notice describing the Department's revised eligibility determination.
3. Issue the Petitioner any retroactive benefits she may be eligible to receive, if any.

KS/nr



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

Kelly Sutherland
2300 E Grand River Ste. 1
Howell, MI
48843

Livingston County DHHS- via electronic
mail

BSC4- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

Petitioner

[REDACTED] - via first class mail
[REDACTED]
[REDACTED], MI
[REDACTED]