



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]

Date Mailed: June 22, 2020  
MOAHR Docket No.: 20-003052  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: John Markey**

### **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 June 17, 2020 from Detroit, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Markita Mobley, Hearings Facilitator. During the hearing, a packet of documents was offered and admitted into evidence as Exhibit A.

### **ISSUE**

Did the Department properly determine that Petitioner was ineligible for Food Assistance Program (FAP) benefits from November 12, 2019 through February 8, 2020?

### **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 submitted to the Department an application for FAP benefits. Exhibit A, pp. 25-30.
2. Petitioner included a statement at the end of the [REDACTED] 2019 application indicating that her previous FAP case was closed for failing to meet the requirements for Time Limited Food Assistance (TLFA) eligibility despite Petitioner having met the 80-hour requirement. Exhibit A, p. 30.

3. On December 12, 2019, the Department notified Petitioner that her FAP application had been denied. Exhibit A, pp. 20-24.
4. Petitioner timely requested a hearing objecting to the denial.
5. On February 13, 2020, a hearing on the matter was held before Administrative Law Judge (ALJ) Kevin Scully. On February 14, 2020, ALJ Scully issued a decision reversing the Department's denial of Petitioner's [REDACTED] 2019 FAP application and ordering the Department to redetermine Petitioner's eligibility for the time period in question while giving Petitioner an opportunity to submit verifications of any outstanding eligibility-related questions.
6. On February 24, 2020, the Department issued to Petitioner a Verification Checklist requesting information related to Petitioner's employment. Petitioner was required to gather the requested proofs and provide them to the Department by March 5, 2020. Exhibit A, pp. 9-10.
7. On March 4, 2020, Petitioner submitted over one dozen pages of documents to the Department. Those documents detailed Petitioner's employment activities during the relevant time period and contained narratives explaining the same. Exhibit A, p. 36.
8. On March 12, 2020, the Department issued to Petitioner a Notice of Case Action informing Petitioner that she was ineligible for FAP benefits from November 12, 2019, ongoing. The reasons given for the denial were that Petitioner had exhausted her TLFA eligibility and that she failed to respond to a request for verification. Exhibit A, pp. 3-7.
9. During the pendency of the instant matter, Petitioner submitted to the Department another application for FAP benefits. That application was approved, effective [REDACTED], 2020.
10. On [REDACTED] 2020, Petitioner submitted to the Department a request for hearing objecting to the Department's determination that she was ineligible for benefits from November 12, 2019 through February 8, 2020.

### **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.

In this case, Petitioner submitted to the Department a hearing request objecting to the Department's finding that Petitioner was ineligible for FAP benefits from November 12, 2019, ongoing. The denial was based on the Department's finding that Petitioner did not meet the requirements for continued FAP eligibility under the TLFA rules and that Petitioner failed to adequately provide requested verifications. The record, however, shows that Petitioner timely provided the documents requested by the Department and that the Department failed to properly consider those documents in determining whether Petitioner was eligible under the TLFA rules.

Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (April 2017), p. 1. Additionally, the Department must obtain verification when information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. BAM 130, page 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, 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.

During the hearing, the Department conceded that Petitioner timely responded to the February 24, 2020 VCL and provided all information requested. That timely submission does not appear to have been processed and considered in determining the applicability of the TLFA rules. The failure to timely process the submission caused the Department to erroneously conclude that Petitioner failed to provide the required verifications and did not meet the requirements. As stated above, the Department may only take negative action when either the client indicates a refusal to provide verification or the time period given to respond has elapsed and the client failed to make a reasonable effort to provide the requested verifications. Neither case is present here. Thus, in determining that Petitioner was ineligible for FAP benefits from November 12, 2019, ongoing, the Department did not follow Department policy.

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 found Petitioner ineligible for FAP benefits from November 12, 2019 through February 8, 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. Redetermine Petitioner's eligibility for FAP benefits from November 12, 2019 through February 8, 2020, taking into account the documents Petitioner submitted demonstrating her work-related activities during each month in question;
2. If additional information is needed, allow Petitioner the opportunity to respond pursuant to policy;
3. Follow law and applicable policy when assessing whether any response satisfies Petitioner's duties with respect to the same;
4. If Petitioner is found eligible for FAP benefits during any of the months in question, ensure that a prompt supplement is issue; and
5. Notify Petitioner in writing of all decisions.

JM/tm



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**John Markey**  
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**

Keisha Koger-Roper  
12140 Joseph Campau  
Hamtramck, MI  
48212

**Petitioner**

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

cc: FAP: M. Holden; D. Sweeney  
AP Specialist-Wayne County