



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR



Date Mailed: December 9, 2020
MOAHR Docket No.: [REDACTED]
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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 December 7, 2020. The Petitioner was self-represented. The Department of Health and Human Services (Department) did not appear for the hearing.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) 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 receiving Unemployment Compensation Benefit (UCB) and Pandemic Emergency Unemployment Compensation (PEUC) benefits during the summer of 2020.
2. In July 2020, the Department issued a Redetermination to Respondent.
3. After completing and returning the Redetermination, the Department closed Petitioner's FAP case due to excess income.
4. Petitioner requested a hearing disputing the closure of his FAP case indicating that the Department's requirement that he complete the Redetermination was in violation of the policy extending the Redetermination process for FAP recipients.

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 disputes the Department's closure of his FAP case because the Department's requirement that he complete the Redetermination process violated the Department's extension of Redetermination reviews. On March 27, 2020, the Economic Stability Administration of MDHHS issued a Memorandum indicating that effective March 31, 2020, all FAP cases that had a Redetermination date in March, April, and May 2020 would be extended six months until September, October, and November of 2020. Economic Stability Administration Memorandum ESA 2020-16, *COVID-19 FAP Redeterminations* (March 27, 2020). On May 5, 2020, the Department issued a revised Memorandum indicating that effective April 29, 2020, FAP cases with a Redetermination date in June 2020 would be extended six months to December 2020. Economic Stability Administration Memorandum ESA 2020-16, *COVID-19 FAP Redeterminations (revised May 5, 2020)*. Since the Department failed to appear for the hearing to provide details of Petitioner's FAP case, it is impossible to determine when Respondent's regular Redetermination was due as opposed to a Redetermination which may or may not have been extended. If Petitioner's original Redetermination date was set for July of 2020, the Department acted appropriately by issuing a Redetermination in July 2020 to Petitioner. If Petitioner's original Redetermination date was set for March through June of 2020, then the Department did not act appropriately in issuing a Redetermination to Petitioner in July 2020.

In addition, since the Department failed to appear for the hearing, the Department has not met its burden of proof in establishing that Respondent's income was greater than the FAP income limit.

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 failed to satisfy its burden of proof showing that it acted in accordance with Department policy when it issued a Redetermination to Petitioner in July 2020 resulting in the closure of Petitioner's FAP case due to excess income.

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. Review Petitioner's FAP case to determine if a July 2020 Redetermination was appropriate;
2. If a July 2020 Redetermination was appropriate, reprocess Petitioner's Redetermination to determine eligibility;
3. If eligible, issue supplements to Petitioner for FAP benefits not previously received effective as of the original closure date; and,
4. Notify Petitioner in writing of its decision.

AMTM/cc



Amanda M. T. Marler
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-Wayne-17-Hearings
BSC4-Hearing Decisions
M. Holden
D. Sweeney
MOAHR

Petitioner- Via USPS:

