



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR



Date Mailed: November 2, 2020  
MOAHR Docket No.: 20-006118  
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 October 29, 2020, from Detroit, Michigan. Petitioner was present with her Authorized Hearing Representative (AHR), [REDACTED]. The Department of Health and Human Services (Department) was represented by Aundrea Jones, Hearing Facilitator.

### **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 August 10, 2020, a Front End Eligibility (FEE) investigation was completed by the Office of Inspector General (OIG) (Exhibit A, pp. 9-11).
3. On August 20, 2020, the Department sent Petitioner a Notice of Case Action informing her that her FAP benefit case was closing effective September 1, 2020, ongoing (Exhibit A, pp. 5-6).
4. On September 16, 2020, Petitioner submitted a request for hearing disputing the Department's decisions related to her FAP and Medical Assistance (MA) 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).

### **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.

Petitioner was an ongoing FAP recipient. The Department testified that Petitioner's FAP benefit case was closed at Petitioner's request, as she informed an agent with OIG that she desired to have her FAP benefit case closed.

An adequate notice is a written notice sent to the client at the same time an action takes effect. BAM 220 (July 2020), p. 3. For FAP cases, a notice of case action is not required if the group voluntarily requests closure in writing. BAM 220, p. 5. For Family Independence Program (FIP), State Disability Assistance (SDA), Medical Assistance (MA), and Child Development and Care (CDC), the Department must issue notice when a recipient of his legal guardian or authorized representative requests in writing that the case be closed. BAM 220, p. 3. Additionally, when a client requests case closure, policy requires that the client's request be entered into Bridges. BAM 220, p. 5.

In support of its contention that Respondent requested that her FAP benefit case be closed, the Department presented the FEE report completed by the OIG agent. Per the FEE report, Petitioner requested that her FAP benefit case be closed on July 29, 2020. The OIG agent was not present to testify at the hearing. Petitioner testified that she did not speak with an OIG agent. Petitioner stated that she did not request that her FAP benefit case be closed in July 2020.

The Department did not present a witness with firsthand knowledge that Petitioner requested the closure of her FAP benefit case. Petitioner stated she did not make the request. Additionally, policy states that a request for closure must be in writing. BAM 220, p. 5. Therefore, the Department failed to establish that it properly followed policy when it closed Petitioner's FAP benefit case.

**MA**

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

The hearing was requested to dispute, in part, the Department's action taken with respect to Petitioner's MA program benefits. Shortly after commencement of the hearing, Petitioner and her AHR testified that they did not wish to proceed with the hearing with respect to MA. The Request for Hearing related to Petitioner's MA benefit case was withdrawn.

Pursuant to the withdrawal of the hearing request filed in this matter related to Petitioner's MA benefit case, the Request for Hearing is DISMISSED.

**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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Petitioner's FAP benefit case.

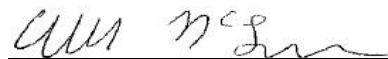
Accordingly, the Department's decision is **REVERSED**.

Pursuant to the withdrawal of the hearing request filed in this matter related to Petitioner's MA benefit case, the Request for Hearing is **DISMISSED**.

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 FAP eligibility as of September 1, 2020;
2. If Petitioner is eligible for FAP benefits, issue supplements she is entitled to receive; and
3. Notify Petitioner of its decision in writing.

EM/jem



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**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-Wayne-18-Hearings  
BSC4-HearingDecisions  
M. Holden  
D. Sweeney  
MOAHR

**Petitioner – Via USPS:**

[REDACTED]

**Authorized Hearing Rep. – Via USPS:**

[REDACTED]