



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]

Date Mailed: February 10, 2021
MOAHR Docket No.: 20-007655
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 February 8, 2021. 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) benefits for failure to verify employment information?

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. At some point, Petitioner notified the Department that there had been a change in her employment and the Department requested verification.
3. Two days prior to the deadline, Petitioner submitted the requested verifications to the Department.
4. On the same day, the Department informed Petitioner that the verifications were incomplete and one necessary section of the form had not been completed.
5. On the same day, Petitioner had the remaining section of the form completed and resubmitted it to the Department.

6. Petitioner's FAP benefits were closed effective December 1, 2020 for failure to verify requested information.
7. On December 3, 2020, Petitioner submitted a request for hearing disputing the Department's closure of her FAP benefits.
8. On January 1, 2021, Petitioner's FAP benefits were reopened.

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's FAP benefits were closed for failure to verify requested information. Policy provides that the Department must request verification of a client's circumstances at application, redetermination, and when a change is reported which affects eligibility or benefit level. BAM 130 (April 2017), p. 1. When the Department requests verifications, it must tell the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. Typically, the Department uses a Verification Checklist (VCL) to accomplish these objectives. *Id.* Clients must be provided with ten calendar days to provide the requested verification. BAM 130, p. 7. Negative Action Notices are sent when the client refuses to provide verification or when the period given has lapsed and the client has not made a reasonable effort to provide the information. *Id.* Petitioner credibly testified that she provided all requested information to the Department two days before the deadline. Furthermore, because the Department failed to appear, the Department has not met its burden of proof in establishing that it followed policy in requesting the verifications or in closing Petitioner's FAP benefits.

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 case for failure to verify requested information.

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 FAP eligibility effective December 1, 2020;
2. If otherwise eligible, issue supplements to Petitioner for benefits not previously received; and,
3. Notify Petitioner in writing of its decision.

AMTM/cc



Amanda M. T. Marler
Administrative Law Judge
for Elizabeth Hertel, 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-Macomb-20-Hearings
BSC4-HearingDecisions
D. Sweeney
M. Holden
MOAHR

Petitioner- Via USPS:

