



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: February 17, 2021
MOAHR Docket No.: 20-007738
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 February 11, 2021, from Detroit, Michigan. Petitioner was present with her Authorized Hearing Representative (AHR), [REDACTED]. The Department of Health and Human Services (Department) was represented by Whitney Walker, Eligibility Specialist.

ISSUE

Did the Department properly process Petitioner's Food Assistance Program (FAP) application?

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], 2020, Petitioner submitted an application for FAP benefits (Exhibit A, pp. 14-18).
2. On November 13, 2020, the Department sent Petitioner a Verification Checklist (VCL) requesting verification of her pension income (Exhibit A, pp. 19-20).
3. On November 18, 2020, the Department sent Petitioner a Notice of Case Action informing her that her FAP application was denied for her failure to submit the requested verifications (Exhibit A, pp. 21-24).
4. On December 8, 2020, Petitioner submitted a request for hearing disputing the Department's actions, along with proof of her pension income (Exhibit A, pp. 3-12).

5. On December 11, 2020, the Department sent Petitioner a Notice of Case Action informing her that her FAP application was approved effective [REDACTED], 2020 (Exhibit A, pp. 31-35).

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 an application for FAP benefits on [REDACTED], 2020. On November 13, 2020, the Department sent Petitioner a VCL requesting verification of her pension income. Proofs were due by November 23, 2020.

Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (April 2017), p. 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 (April 2017), 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.

The Department testified that Petitioner failed to return the proof of her pension income prior to the VCL due date. As a result, Petitioner's FAP application was denied. The Department also stated that the VCL was returned to the Department as undeliverable. Petitioner's AHR stated that Petitioner did not receive the VCL. Petitioner's AHR testified that they submitted the proof of Petitioner's pension income after receiving the November 18, 2020 Notice of Case Action.

Upon review of the VCL, the document was sent to Petitioner's incorrect address. The VCL did not contain Petitioner's apartment number. However, Petitioner did not list an apartment number on her [REDACTED], 2020 application. The client is responsible for providing accurate information to the Department. Therefore, the Department acted in accordance with policy when it sent Petitioner the VCL. As it follows, the Department acted in accordance with Department policy when it denied Petitioner's FAP application for her failure to submit the requested verifications.

The Department testified that once Petitioner's income verification was received with the request for hearing on [REDACTED], 2020, her application was subsequently processed. The subsequent processing policy states that the Department will reregister an application for FAP benefits if a client completes the application process after denial, but within 60 days after the application date. BAM 115 (April 2017), p. 23. If the client completes the application process within 30 days of the date of application, the Department will re-register the application using the original application date. BAM 115, p. 23. If the client completes the application process between 31 and 60 days beyond the application date, the department will reregister the application using the date the client completed the process. BAM 115, p. 24.

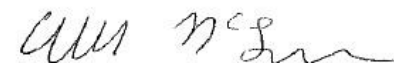
Petitioner's AHR confirmed that the verification of Petitioner's pension income was not submitted until December 8, 2020. Therefore, the Department acted in accordance with policy when it processed Petitioner's application as of [REDACTED], 2020.

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 acted in accordance with Department policy when it processed Petitioner's FAP application.

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

EM/jem



Ellen McLemore
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-Wayne-17-Hearings
BSC4-HearingDecsions
M. Holden
D. Sweeney
MOAHR

Petitioner – USPS:

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Authorized Hearing Rep. – USPS:

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