



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] MI [REDACTED]

Date Mailed: January 28, 2021
MOAHR Docket No.: 20-007848
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Janice Spodarek

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, an administrative hearing was held on January 21, 2021.

Petitioner appeared unrepresented.

The Department of Health and Human Services (Department) was represented by Yvette Bishop-Turnbull, FIM. The Department called Alex Oguejiofoc, ES Worker.

Department Exhibit A.47 was admitted.

ISSUE

Did the Department properly process Petitioner's Food Assistance Case (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. On [REDACTED] 2020 Petitioner applied for FAP benefits.
2. On November 6, 2020, the Department issued a Verification Checklist including instructing Petitioner to contact the Office of Child Support (OCS) to comply with Child Support requirements, due by November 16, 2020.
3. On December 1, 2020, the Department issued a Notice of Case Action denying Petitioner's FAP application "[REDACTED]-Ongoing" on the grounds that Petitioner failed to cooperate with child support requirements.

4. On December 1, 2020 Petitioner contacted the OCS and was immediately classified as compliant.
5. The OCS issued a compliance letter to the local office indicating that Petitioner was compliant as of December 1, 2020. On December 2, 2020, the Department issued a Notice of Case Action approving Petitioner's FAP benefits effective "12/01/2020-2/28/2021" for \$94.00 per month for a group size of 2.
6. On December 11, 2020, Petitioner filed a hearing request.

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.

Applicable policy and procedure to the case herein is found primarily at BEM 255. Correspondent federal regulations are found at 7 CFR 273.11.

Individuals asserting eligibility for welfare benefits have the burden of proof by a preponderance of evidence. Here, that burden falls on Petitioner.

In this case, Petitioner's testimony was confusing and difficult despite a lengthy hearing with much testimony. Initially, Petitioner failed to clearly articulate what she was disputing. A review of the record shows unrefuted evidence that Petitioner was not considered compliant with the OCS until December 1, 2020. Department policy does not allow welfare benefits to be issued until a beneficiary is compliant with the OCS. Unrefuted evidence of record herein is that Petitioner was not compliant until December 1, 2020. The Department approved Petitioner FAP benefits retro to December 1, 2020, the earliest allowed by policy and federal law.

Petitioner also complained that she did not receive her COVID supplement. Evidence of record indicates that Petitioner was issued her December 2020 supplement. Petitioner denied the same but presented no evidence that would rebut the Department's evidence of having issued the supplement to Petitioner. Petitioner did not seem to be aware that the supplement is issued in a separate payment.

Petitioner also argued that she did not receive her January 2021 COVID supplement. While that issue is premature to review, the Department pointed out that Petitioner is eligible for a January 2021 supplement but that the State of Michigan has not yet issued her payment.

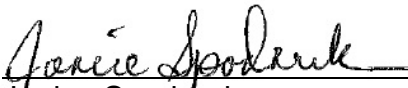
There does not appear to be any evidence that the Department has failed to act in accordance with federal and state law in processing Petitioner's FAP case. As such, the Department must be upheld.

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 Petitioner has failed to meet her burden of proof and the Department acted in accordance with Department policy.

DECISION AND ORDER

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

JS/ml



Janice Spodarek
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

DHHS

Courtney Jenkins
Washtenaw County DHHS – via electronic mail

BSC4 – via electronic mail

M. Holden – via electronic mail

D. Sweeney – via electronic mail

Petitioner

██████████ – via first class mail

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