



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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██████████, MI ██████████

Date Mailed: February 18, 2021
MOAHR Docket No.: 20-008108
Agency No.: ██████████
Petitioner: ██████ ██████

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on February 11, 2021. Petitioner represented herself. The Department was represented by Julie McLaughin and Terson Bethea.

ISSUE

Did the Department of Health and Human Services (Department) properly close Petitioner's Food Assistance Program (FAP) benefits?

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 Food Assistance Program (FAP) recipient on November 30, 2020, when the Department received her Redetermination (DHS-1010) form. Exhibit A, pp 14-18.
2. Along with her Redetermination form, Petitioner provided verification of a bank account with a balance of \$██████████ a savings account with a balance of \$██████████ a checking account with a balance of \$██████████ Exhibit A, pp 19-20.
3. Through its asset detection program, the Department identified two bank accounts attributed to Petitioner with balances of \$██████████ and \$██████████ Exhibit A, p 12.
4. On December 2, 2020, the Department sent Petitioner a Verification Checklist (DHS-3503) requesting verification of all cash assets. Exhibit A, pp 21-22.

5. On December 18, 2020, the Department notified Petitioner that she was not eligible for Food Assistance Program (FAP) benefits as of January 1, 2021. Exhibit A, pp 23-26.
6. On December 29, 2020, the Department received Petitioner's request for a hearing protesting the closure of her Food Assistance Program (FAP) benefits. Exhibit A, pp 5-6.

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) is funded under the federal Supplemental Nutrition Assistance Program (SNAP) established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 through 7 USC 2036a. It is implemented by the federal regulations contained in 7 CFR 273. The Department administers FAP pursuant to MCL 400.10 of the Social Welfare Act, MCL 400.1 *et seq*, and Mich Admin Code, R 400.3001 through 400.3011.

Assets means cash, any other personal property and real property. Real property is land and objects affixed to the land such as buildings, trees, and fences. Condominiums are real property. Personal property is any item subject to ownership that is not real property. Countable assets cannot exceed the applicable asset limit. An asset is countable if it meets the availability tests and is not excluded. Available means that someone in the asset group has the legal right to use or dispose of the asset. Department of Human Services Bridges Eligibility Manual (BEM) 400 (January 1, 2021), pp 1-7.

The asset limit to remain eligible for FAP benefits is \$15,000. BEM 400, pp 5-6.

Clients must cooperate with the local office in determining initial and ongoing eligibility and this includes the completion of necessary forms. Department of Human Services Bridges Assistance Manual (BAM) 105 (July 1, 2020), p 9.

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level when it is required by policy, required as a local office option, or information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. The Department uses documents, collateral contacts, or home calls to verify information. A collateral contact is a direct contact with a person, organization, or agency to verify information from the client. When documentation is not available, or clarification is needed, collateral contact may be necessary. Department of Human Services Bridges Assistance Manual (BAM) 130 (January 1, 2021), pp 1-10.

On November 30, 2020, the Department initiated a routine review of Petitioner's eligibility for ongoing FAP benefits after receiving her Redetermination form. Petitioner provided verification of two bank accounts, and the Department identified two additional bank accounts that were not verified. On December 2, 2020, the Department sent Petitioner a Verification Checklist (DHS-3503) requesting verification of her cash assets. Petitioner failed to provide additional verification of bank accounts listing her as an owner, and the Department closed Petitioner's FAP benefits.

Petitioner testified that while she is listed on a joint account with another person, the money in those accounts is not her money.

However, Petitioner failed to provide evidence supporting her claim that the money in the accounts with balances exceeding \$15,000 is not available to her and failed to provide verification of this to the Department when requested on December 2, 2020. If Petitioner had provided the Department with verification of the ownership of the money in her accounts by December 14, 2020, the Department may not have closed her 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 acted in accordance with Department policy when it closed Petitioner's Food Assistance Program (FAP) benefits.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.

KS/nr



Kevin Scully
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

Jackie Stempel
2700 Baker Street
PO Box 4290
Muskegon Heights, MI
49444

Muskegon County DHHS- via electronic
mail

BSC3- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

Petitioner

██████████ - via first class mail

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██████████, MI

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