



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
MI [REDACTED]

Date Mailed: February 23, 2021
MOAHR Docket No.: 20-008160
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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. [REDACTED] the Petitioner, appeared on her own behalf. The Department of Health and Human Services (Department) was represented by Brad Reno, Eligibility Specialist and Hearing Facilitator (ES/HF).

ISSUE

Did the Department properly deny Petitioner's [REDACTED] application for 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. On [REDACTED] Petitioner applied for FAP. (Exhibit A, pp. 12-17)
2. On November 25, 2020, a telephone interview was completed, and it was discussed that a State On-Line Query indicated Petitioner received RSDI income as a surviving divorced wife and widow. Petitioner understood that she would need to provide verification by December 7, 2020. (Exhibit A, pp. 3 and 18-24)
3. On November 25, 2020, a Verification Checklist (VCL) was issued to Petitioner requesting verification of her RSDI income with a December 7, 2020 due date. (Exhibit A, pp. 25-26)
4. On November 30, 2020, Petitioner submitted a Social Security Administration (SSA) SSA-1099 Social Security Benefit Statement for 2019 showing net benefits in the amount of [REDACTED] for 2019. (Exhibit A, pp. 27-28)

5. The Department worker determined the SSA-1099 was not sufficient verification of gross income within 30 days of the application date. (Exhibit A, p. 3)
6. On December 8, 2020, A Notice of Case Action was issued to Petitioner denying the [REDACTED] FAP application because verification of unearned income was not returned. (Exhibit A, pp. 29-32)
7. On [REDACTED] Petitioner applied for FAP and reported RSDI income. (Exhibit A, pp. 33-37)
8. On December 23, 2020, a telephone interview was completed, and a collateral contact was made with SSA to verify Petitioner's income. (Exhibit A, pp. 38-41)
9. On December 23, 2020, a Notice of Case Action was issued to Petitioner approving the [REDACTED] FAP application. (Exhibit A, pp. 43-47)
10. On December 23, 2020, Petitioner requested a hearing contesting the denial of her [REDACTED] FAP application. (Exhibit A, pp. 7-11)

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 general, Verification is to be obtained when information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. The Department must tell the client what verification is required, how to obtain it, and the due date. The client must obtain required verification, but the Department must assist if the client needs and requests help. If neither the client nor the Department can obtain verification despite a reasonable effort, the Department should use the best available information. If no evidence is available, the Department is to use their best judgment. BAM 130, April 1, 2017, pp. 1-3.

For FAP, the Department must allow the client 10 calendar days (or other time limit specified in policy) to provide the verification requested. The Department is to send a case action notice when the client indicates refusal to provide a verification, or the

time-period given has elapsed and the client has not made a reasonable effort to provide it. Further, if the client contacts the department prior to the due date requesting an extension or assistance in obtaining verifications, the Department is to assist the client with the verifications but not grant an extension. The Department is to explain to the client they will not be given an extension and their case will be denied once the VCL due date is passed. Also, their eligibility will be determined based on their compliance date if they return required verifications. The Department is to reregister the application if the client complies within 60 days of the application date. BAM 130, p. 7.

Overall, the evidence does not support the denial of the [REDACTED] application. On November 25, 2020, a VCL was issued to Petitioner requesting verification of her RSDI income with a December 7, 2020 due date. (Exhibit A, pp. 25-26) Petitioner attempted to comply with the verification request. On November 30, 2020, Petitioner submitted the Social SSA-1099 Social Security Benefit Statement for 2019. (Exhibit A, pp. 27-28) Accordingly, Petitioner made a reasonable attempt to provide the requested verification.

Further, the ES/HF testified that the Department could have made the collateral contact to SSA to verify Petitioner's RSDI income for the [REDACTED] application, as was done for the [REDACTED] application. Accordingly, the ES/HF submitted a ticket to have Petitioner's eligibility for FAP determined as of [REDACTED]. That resulted in a determination that Petitioner was eligible for \$11.00 in FAP benefits for the partial month of November 2020 and \$16.00 for the month of December 2020. (ES/HF Testimony)

Due to COVID-19, supplemental FAP benefits are being issued for some months to households currently receiving FAP benefits to bring the case to the maximum monthly amount for the group size. A Memorandum from the Economic Stability Administration (ESA) indicates the approval was initially for two months, March 2020 and April 2020. Subsequently, approvals were made on a month-by-month basis and Michigan was approved to issue the additional benefits for each additional month thus far. The Memorandum is clear that this is a supplemental emergency allotment, which does not change the eligibility determination. Further, the Memorandum states that there will be catch up jobs to provide supplements for cases that are opened or reinstated. ESA 2020-15, as updated December 11, 2020. The ES/HF acknowledged that the Department may need to look into whether supplemental payments should be issued to Petitioner for November and December 2020.

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 did not act in accordance with Department policy when it denied Petitioner's [REDACTED] FAP application.

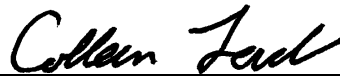
DECISION AND ORDER

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. If they have not already done so, the Department should continue to re-determine Petitioner's eligibility for FAP retroactive to the [REDACTED] effective date in accordance with Department policy.
2. Supplement for lost benefits (if any) that Petitioner was entitled to receive, if otherwise eligible and qualified in accordance with Department policy.

CL/ml



Colleen Lack
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

Tamara Morris
Genesee (Union St.) County DHHS – via
electronic mail

BSC2 – via electronic mail

M. Holden – via electronic mail

D. Sweeney – via electronic mail

Petitioner

██████████ – via first class mail

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