



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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Date Mailed: April 5, 2021
MOAHR Docket No.: 21-001144
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 April 1, 2021, from Detroit, Michigan. Petitioner was present and represented himself. The Department of Health and Human Services (Department) was represented by Valarie Foley, Hearing Facilitator.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefit 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. Petitioner was an ongoing FAP recipient.
2. On January 25, 2021, Petitioner completed a redetermination related to his FAP benefit case (Exhibit A, pp. 4-8).
3. On February 1, 2021, the Department sent Verification of Employment forms to Petitioner to verify his two children's/group members' employment (Exhibit A, pp. 13-20).
4. On February 19, 2021, the Department sent Petitioner a Notice of Case Action informing him that his FAP benefit case was closing effective March 1, 2021, ongoing.

5. On February 26, 2021, Petitioner submitted a request for hearing disputing the Department's actions.

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 was an ongoing FAP recipient. On January 25, 2021, Petitioner completed a redetermination. The Department retrieved Consolidated Inquiry (CI) reports for all of Petitioner's group members. The CI reports indicated that two of Petitioner's children had been recently employed (Exhibit A, pp. 9-12). As a result, the Department sent Petitioner Verification of Employment forms on February 1, 2021, for both children. The verifications were due to be returned on February 11, 2021.

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 must verify income at application and at redetermination. BEM 505 (October 2017), p. 14. When determining income, the Department uses income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month. BEM 505, p. 6. The Department must verify income that stopped within the 30 days prior to the application date or while the application is pending. BEM 505, p.

14. To verify wages, salaries and commissions for all programs, the Department will send a DHS-38, Verification of Employment. BEM 501 (October 2018), p. 11.

The Department testified that Petitioner returned the Verification of Employment forms on February 8, 2021. However, the forms were incomplete and completed by Petitioner, not the employer as required. As a result, the Department closed Petitioner's FAP benefit case for his failure to provide the requested verifications.

Upon review of Petitioner's daughter's CI report, it indicates Petitioner's daughter was the "client name" (Exhibit A, p. 9). However, the "employee name" is listed as another individual that is not a member of Petitioner's group (Exhibit A, p. 10). Petitioner confirmed at the hearing that his daughter has never been employed with the employer listed on the CI report for his daughter. Upon review of Petitioner's son's CI report, it indicates that Petitioner's son's most recent employment was in the third quarter of 2020 (Exhibit A, p. 12).

Petitioner's daughter was not employed, and therefore, the Department did not act in accordance with policy when it requested verification from Petitioner regarding his daughter's employment. Additionally, Petitioner's son was not employed within the 30 days prior to Petitioner's redetermination. Thus, the Department did not act in accordance with policy when it requested verification from Petitioner regarding his son's employment. As it follows, the Department did not act in accordance with policy when it closed Petitioner's FAP benefit case for his failure to submit the requested verifications.

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 did not act in accordance with Department policy when it closed Petitioner's FAP benefit case.

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 as of March 1, 2021, ongoing;
2. If Petitioner is eligible for FAP benefits, issue supplements he is entitled to receive; and

