



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

██████████
██████████
██████████ MI ██████████

Date Mailed: April 5, 2021
MOAHR Docket No.: 21-001178
Agency No.: ██████████
Petitioner: ██████████

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 herself. The Department of Health and Human Services (Department) was represented by Valarie Foley, Hearing Facilitator.

ISSUE

Did the Department properly deny Petitioner's Food Assistance Program (FAP) applications?

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 ██████████ 2020, Petitioner submitted an application for FAP benefits.
2. On December 3, 2020, the Department sent Petitioner a Verification Checklist (VCL) requesting verification of Petitioner's Unemployment Compensation Benefits (UCB) income, unknown employment income and her assets (Exhibit A, pp. 21-23).
3. On December 17, 2020, Petitioner submitted verification of her UCB income.
4. On December 17, 2020, the Department sent Petitioner a Notice of Case Action (NOCA) informing her that her application was denied.
5. On February 8, 2021, Petitioner submitted an application for FAP benefits along with verification of her assets.

6. On February 11, 2021, the Department sent Petitioner a VCL requesting verification of her son's employment and contributions from individuals outside the group (Exhibit A, pp. 18-19).
7. On February 12, 2021, Petitioner submitted verification of contributions received from individuals outside the group and her son's employment income.
8. On March 10, 2021, Petitioner submitted verifications of her assets.
9. On March 10, 2021, the Department sent Petitioner a NOCA denying Petitioner's FAP application.
10. Petitioner submitted a request for hearing disputing the Department's decision to deny her FAP applications, as well as decisions issued related to her Family Independence Program (FIP) and State Emergency Relief (SER) benefit cases.

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).

FAP

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 December 2, 2020, the Department sent Petitioner a VCL requesting verification of her UCB income, unknown employment income and her assets. Proofs were due by December 14, 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 submitted verification of her UCB income on December 17, 2020. The Department sent Petitioner a NOCA on December 17, 2020, informing her that her application was denied for her failure to submit the requested verification of her assets and unknown employment income. Petitioner testified that she submitted verification of her UCB income. Petitioner also stated that she submitted verification of her assets.

The Department sends a negative action 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. Petitioner clearly did not indicate a refusal to provide the verification and made a reasonable effort to comply with the requests for verification. Thus, the Department did not act in accordance with policy when it denied Petitioner's [REDACTED] 2020 application.

Petitioner submitted a second application on [REDACTED] 2021. On February 11, 2021, the Department sent Petitioner a VCL requesting verification of her son's employment income and contributions from individuals outside the group. Proofs were due by February 22, 2021.

The Department testified that Petitioner submitted verification of contributions received from individuals outside the group and her son's employment income. However, the verification submitted by Petitioner related to her son's employment income did not contain her son's name. The Department deemed the verifications insufficient. As a result, the Department denied Petitioner's [REDACTED] 2021 application.

The Department sends a negative action 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. Petitioner clearly did not indicate a refusal to provide the verification and made a reasonable effort to comply with the requests for verification. Thus, the Department did not act in accordance with policy when it denied Petitioner's [REDACTED] 2021 application.

FIP and SER

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Department of Human Services) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101-.3131.

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Department of Human Services) pursuant to MCL 400.10 and Mich Admin Code, R 400.7001-.7049.

The hearing was requested, in part, to dispute the Department's action taken with respect to Petitioner's FIP and SER cases. Shortly after commencement of the hearing, Petitioner testified that she did not wish to proceed with the hearing related to her SER and FIP benefit cases. The Request for Hearing was withdrawn. The Department agreed to the dismissal of the hearing request.

Pursuant to the withdrawal of the hearing request filed in this matter the Request for Hearing related to the FIP and SER benefit programs is hereby **DISMISSED**.

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 denied Petitioner's [REDACTED] 2020 and [REDACTED] 2021 FAP applications.

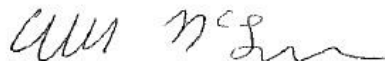
Accordingly, the Department's decisions are **REVERSED**.

Petitioner's Request for Hearing related to her FIP and SER benefit cases is **DISMISSED**.

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. Reinstate and reprocess Petitioner's [REDACTED] 2020 and [REDACTED] 2021 FAP applications;
2. If Petitioner is eligible for FAP benefits, issue supplements she is entitled to receive; and
3. Notify Petitioner of its decisions in writing.

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-19-Hearings
BSC4-HearingDecisions
M. Holden
D. Sweeney
B. Sanborn
T. Bair
E. Holzhausen
MOAHR

Petitioner – Via First-Class Mail:

██████████
██████████████████
██████████ MI ██████████