



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]

Date Mailed: May 19, 2021
MOAHR Docket No.: 21-001835
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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 May 12, 2021. The Petitioner was self-represented and had her nephew, [REDACTED], appear as a witness and translator on her behalf. The Department of Health and Human Services (Department) was represented by Crystal Hackney, Assistance Payments Supervisor, and Dores Bissell, Assistance Payments Worker.

ISSUE

Did the 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. On January 4, 2021, the Department mailed a Redetermination to Petitioner which was due back by January 24, 2021.
2. On January 10, 2021 at 2:10 PM, Petitioner's nephew faxed the completed Redetermination to 517-346-9888, the fax number listed on the top of the Redetermination and received a fax confirmation for delivery.
3. On [REDACTED] 2021, the Department received a completed State Emergency Relief (SER) Application.

4. Petitioner's nephew made several calls and left several voicemails after faxing the documents to the Department about the Redetermination and received no response.
5. Effective March 1, 2021, Petitioner's FAP benefits were closed for failure to complete the Redetermination process.
6. On April 1, 2021, the Department received Petitioner's Request for Hearing disputing the closure of her FAP benefits indicating that she had faxed the documents to the Department on January 10, 2021.

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 disputes the Department's closure of her FAP benefits for failure to complete the Redetermination process. Policy provides that clients must complete the Redetermination process otherwise the benefit period shall expire. BAM 210 (January 2021), p. 3. A group loses its right to uninterrupted FAP benefits if it fails to file the FAP redetermination form by the timely filing date, participate in a scheduled interview, or submit verifications timely. BAM 210, p. 22. Interviews are only held when a completed redetermination form is received by the Department. BAM 210, p. 15.

The Department issued a Redetermination to Petitioner on January 4, 2021 with a due date of January 24, 2021. Petitioner's nephew credibly testified that he faxed the completed Redetermination to the Department at the fax number provided on the top of the Redetermination form on January 10, 2021 at 2:10 PM. For whatever reason, the Department did not process or receive the Redetermination even though Petitioner's nephew had a fax confirmation. Petitioner's nephew also credibly testified that he had made several calls and left several voicemails after submitting the Redetermination but received no response. Given that policy requires the client to file the FAP redetermination timely in order to continue receiving uninterrupted FAP benefits and credible evidence has been presented that it was filed, although not processed by the Department, the Department has not established that it acted in accordance with Department policy in closing Petitioner's 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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Petitioner's FAP benefits effective March 1, 2021.

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. Redetermine Petitioner's eligibility for FAP benefits effective March 1, 2020;
2. If otherwise eligible, issue supplements to Petitioner for benefits not previously received; and,
3. Notify Petitioner in writing of its decision.

AMTM/cc



Amanda M. T. Marler
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-17-Hearings
BSC4-HearingDecisions
D. Sweeney
M. Holden
MOAHR

Petitioner- Via USPS:

