



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]

Date Mailed: August 18, 2021
MOAHR Docket No.: 21-003414
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Landis Lain

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, telephone hearing was held on August 17, 2021, from Lansing, Michigan. Petitioner Fadi Al Mikhaeel appeared and self-represented. The Department of Health and Human Services (Department) was represented by Haysem Hosney, Hearings Coordinator.

ISSUE

Did the Department properly deny Petitioner's 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], 2021, Petitioner submitted a FAP application.
2. On June 8, 2021, a DHS-3502 verification checklist was mailed to Petitioner with a due date of June 18, 2021.
3. On July 1, 2021, a DHS-1605 Notice of Case Action was mailed to Petitioner denying the FAP application because Petitioner did not provide proof of unknown income.
4. On July 1, 2021, Petitioner filed a Request for Hearing to contest the Department's negative action. Petitioner requested an Arabic Interpreter.
5. On July 22, 2021, a prehearing conference was held with Petitioner.

6. The Department agreed to re-register the FAP application and attempt to retrieve verifications needed to process the application.
7. Petitioner did not want to withdraw his Request for Hearing.
8. On July 23, 2021, the Michigan Office of Administrative Hearings and Rules received a Hearing Summary and attached documents.
9. On August 17, 2021, the hearing was convened.
10. There was no Arabic Interpreter provided for the hearing, but Petitioner could understand some of what was happening.
11. The Department conceded on the record that the case should be reversed, the application reinstated, and a new verification checklist sent to Petitioner.
12. Petitioner's due process rights are protected because the Department conceded and agreed to reprocess Petitioner's application for FAP benefits.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance has been denied. MAC R 400.903(1). Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

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.

The Department caseworker conceded on the record that the verification checklist was not clear, and that the Petitioner was confused about what information must be provided. The Department agreed to reinstate Petitioner's [REDACTED] 2021, FAP

application to provide quality customer service. The application should be re-registered, and the Department attempt to retrieve the verification information needed to process the application. The department has not established by the necessary competent, material and substantial evidence on the record that it was acting in compliance with department policy when it denied Petitioner's application for Food Assistance Program benefits. The Department decision must be reversed.

DECISION AND ORDER

Accordingly, the Department's denial of Petitioner's Food Assistance Program application was incorrect under the circumstances. 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. Reinstate Petitioner's [REDACTED], 2021, application for FAP benefits;
2. Re-evaluate Petitioner's Food Assistance Program case and determine the proper amount in accordance with Department policy;
3. Notify Petitioner of his eligibility or lack thereof for FAP benefits;
4. If Petitioner is otherwise eligible, pay to Petitioner any FAP benefits to which Petitioner is entitled from the [REDACTED], 2021, application date forward.

LL/ml



Landis Lain
Administrative Law Judge

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 Electronic Mail

MDHHS-Macomb-36-Hearings
BSC4
M. Holden
D. Sweeney
MOAHR

Via First Class Mail

[REDACTED]
[REDACTED] MI [REDACTED]