



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

Date Mailed: November 3, 2021
MOAHR Docket No.: 21-004233
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 hearing was held via telephone conference line on October 25, 2021. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Marci Walker, lead specialist

ISSUE

The issue is whether MDHHS properly terminated Petitioner's Food Assistance Program (FAP) eligibility.

FINDINGS OF FACT

The administrative law judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. As of June 2021, Petitioner was an ongoing recipient of FAP benefits with a benefit period certified through July 2021.
2. On June 4, 2021, MDHHS mailed Petitioner a redetermination packet which included a DHS-1010, Redetermination form.
3. On July 13, 2021, Petitioner called to check the status of her case and was told that her FAP benefits were approved.
4. On July 31, 2021, Petitioner's FAP eligibility ended due to MDHHS not receiving a DHS-1010 from Petitioner.
5. As of July 31, 2021, Petitioner did not submit a DHS-1010 to MDHHS.

6. On August 31, 2021, Petitioner requested a hearing to dispute the termination of FAP benefits.

CONCLUSIONS OF LAW

The Food Assistance Program [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. MDHHS administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute a termination of FAP benefits. Exhibit A, p. 4. MDHHS testified that Petitioner's FAP eligibility ended due to Petitioner's failure to return a DHS-1010.¹

For all programs, a complete redetermination is required at least every 12 months. BAM 210 (January 2021) p. 3. Bridges, the MDHHS database, automatically sends a DHS-1010, Redetermination, to the client three days prior to the negative action cut-off date in the month before the redetermination is due. *Id.*, p. 8. For FAP benefits, the redetermination process begins when the client files a DHS-1010 or other acceptable substitute form. BAM 210 (January 2018), p. 3. FAP benefits stop at the end of the benefit period unless the redetermination process is completed and a new benefit period is certified. *Id.* If the redetermination packet is not logged in by the last working day of the redetermination month, Bridges automatically closes the benefits and a Notice of Case Action is not generated. *Id.*, p. 14.

MDHHS contended that Petitioner failed to return a DHS-1010 or other acceptable redetermination form before the end of her FAP benefit period. During the hearing, a lead specialist testified that Petitioner's Electronic Case File listed numerous verifications submitted in July 2021 (Exhibit A, pp. 15-28), but no DHS-1010.

Petitioner responded that she twice submitted a DHS-1010 on June 23, 2021: one sent electronically, and one sent by mail. Petitioner credibly testified that she printed the DHS-1010 and wrote that she mailed it on June 24, 2021.² Despite Petitioner's claim, her actions were not indicative that she submitted a DHS-1010 before the end of her benefit period.

MDHHS documented that Petitioner called on June 25, 2021, to report difficulty with electronically sending documents. Exhibit A, p. 14. A viewing of Petitioner's submissions

¹ Petitioner ultimately only failed to receive FAP benefits for August 2021. Petitioner reapplied for FAP on [REDACTED] 2021. Her application was approved beginning September 2021, but denied for August 2021.

² Petitioner requested that she be given time to submit the document. Petitioner's request was denied, but her testimony that she printed the document was accepted as factual without the form being entered as an exhibit.

demonstrate that several were combined into a single page, blackened, illegible, and/or fragmented. Exhibit A, pp. 21-28. This evidence was consistent with an unsuccessful submission of a DHS-1010.

Petitioner may have believed that she submitted a DHS-1010 after submitting two Federally Facilitated Marketplace Application Transfers to MDHHS on July 9, 2021. Exhibit A, pp. 29-46. Petitioner's submission is curious because she was already receiving medical benefits and presumably had no need to reapply twice. Petitioner testified that she purposely submitted the applications because she had upcoming medical expenses. Petitioner's testimony contradicted an email she wrote to MDHHS on August 23, 2021, questioning why MDHHS processed two MA applications for her instead of two DHS-1010s she submitted. Exhibit A, p. 47. This evidence suggested that Petitioner thought she submitted DHS-1010s but actually submitted two irrelevant applications for Medicaid. Given the evidence, Petitioner did not submit a DHS-1010 to MDHHS before the end of her benefit period.

Petitioner's failure to submit a DHS-1010 was partially the fault of MDHHS. MDHHS documented that Petitioner called on July 13, 2021 to check the status of her case and was told that her benefits were approved. A testifying specialist unconvincingly argued that informing Petitioner that she was approved was proper because Petitioner's case was active with no negative action threatened. Telling Petitioner that her FAP benefits were approved in a final month of certification and two weeks before her case was closed for not returning a DHS-1010 was highly misleading. Petitioner's testimony implied that she relied on MDHHS's statement and never bothered to submit a DHS-100 thereafter. Had Petitioner been properly informed, she may very well have submitted a DHS-1010 before the end of her benefit period. The question then becomes whether Petitioner is entitled to an administrative remedy for MDHHS's misleading communication.

An appropriate equitable remedy would be to allow Petitioner further time to submit a DHS-1010. However, equitable remedies are not available in administrative hearings. Petitioner failed to return a DHS-1010 despite MDHHS following proper procedures in mailing the form to Petitioner. Petitioner's reliance on MDHHS's misleading statement is unfortunate, but not remediable. Given the evidence, MDHHS properly ended Petitioner's FAP eligibility beginning August 2021 due to not receiving a completed DHS-1010.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly terminated Petitioner's FAP eligibility beginning August 2021. The actions taken by MDHHS are **AFFIRMED**.

CG/ml



Christian Gardocki
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

DHHS – Via Email:

MDHHS-Shiawassee-Hearings
BSC2
M. Holden
D. Sweeney
MOAHR

Petitioner – Via USPS:

[REDACTED]
[REDACTED]
MI [REDACTED]