



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: April 5, 2022
MOAHR Docket No.: 21-005177
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm

HEARING DECISION

On October 18, 2021, Petitioner, [REDACTED], requested a hearing to dispute the Department's decision to close his Food Assistance Program (FAP) benefits effective June 30, 2021. Following Petitioner's hearing request, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, 7 CFR 273.15, and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on March 30, 2022. Petitioner appeared and represented himself. Respondent, Department of Health and Human Services (Department), had Andrea Edwards, Hearing Coordinator, appear as its representative. Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 31-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

ISSUE

Whether the Department properly closed Petitioner's FAP benefits effective June 30, 2021?

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 May 3, 2021, the Department mailed Petitioner a semi-annual contact form with instructions to complete it and return it to the Department by May 24, 2021.
2. The Department did not receive the completed form back from Petitioner by May 24, 2021.

3. On June 10, 2021, the Department mailed Petitioner a notice of FAP closure that advised Petitioner that his FAP benefits were going to close effective June 30, 2021, because Petitioner did not return the completed semi-annual contact form to the Department as required.
4. Petitioner received the FAP closure notice and contacted the Department in an attempt to avoid the closure.
5. On June 17, 2021, the Department received the completed semi-annual contact form from Petitioner.
6. The Department reviewed the completed semi-annual contact form and noticed that Petitioner reported that he was no longer receiving unemployment income. However, there was no proof attached to the form to substantiate that Petitioner was no longer receiving unemployment income.
7. On June 17, 2021, the Department mailed a verification checklist to Petitioner with instructions to provide proof that he was no longer receiving unemployment income. The verification checklist instructed Petitioner to provide the proof to the Department by Jun 28, 2021.
8. The Department spoke with Petitioner and explained to Petitioner what documentation he needed to provide to the Department to substantiate that he was no longer receiving unemployment income. Petitioner acknowledged that he understood.
9. Petitioner attempted to provide the proof to the Department, but Petitioner had difficulty obtaining the requested proof.
10. The Department did not receive the requested proof back from Petitioner by June 28, 2021.
11. On June 29, 2021, Petitioner contacted the Department and advised the Department that he was having difficulty getting the requested proof.
12. On August 11, 2021, Petitioner requested a hearing to dispute the Department's decision to close his FAP benefits.
13. On September 16, 2021, a hearing on Claimant's dispute was scheduled to be held.
14. Claimant did not appear for the scheduled hearing because he did not realize he had to call in to participate.
15. On September 17, 2021, an order dismissing Petitioner's hearing request was issued.
16. On October 18, 2021, Petitioner requested a reconsideration.

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) 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 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 is disputing the Department's decision to close his FAP benefits effective June 30, 2021. I find it proper to address Petitioner's dispute even though his hearing request was received more than 90 days after the date of the negative action. Petitioner submitted a timely hearing request to dispute the negative action notice, and Claimant's hearing request was dismissed because he did not appear at the hearing. However, Claimant then submitted a timely reconsideration request on October 18, 2021 (which was treated as the hearing request in this case). I find it proper to grant Claimant's reconsideration request to address Petitioner's dispute.

Based on the evidence presented, the Department properly closed Petitioner's FAP benefits effective June 30, 2021. The Department sent Petitioner a verification checklist on June 17, 2021, to instruct Petitioner to provide additional information to the Department by June 28, 2021, to avoid his FAP closure. The Department also spoke with Petitioner and explained to Petitioner what information the Department needed to receive to stop Petitioner's FAP benefits from closing. When the Department did not receive the additional information by June 28, 2021, the Department closed Petitioner's FAP benefits effective June 30, 2021.

Verification is usually required by the Department at the time of application or redetermination. BAM 130 (January 1, 2021), p. 1. The Department must tell a client what verification is required, how to obtain it, and the due date. *Id.* at 3. The Department must allow the client 10 calendar days to provide requested verification. *Id.* at 8. The client must obtain the verification, but the local office must assist if the client needs it and asks for help. *Id.* Verifications are only considered timely if they are received by the due date. *Id.* The Department must send a Negative Action Notice when the client refuses to provide the verification, or the client has failed to provide the verification by the due date. *Id.*

In this case, the Department requested verification from Petitioner because the Department needed additional information to complete Petitioner semi-annual review. The Department properly instructed Petitioner what verification was required, how to obtain it, and the due date. The Department also properly allowed Petitioner 10 calendar days to provide the verification. It was Petitioner's responsibility to provide the

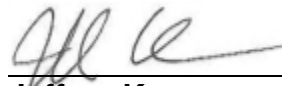
verification to the Department by the due date. When the Department did not receive the verification by the due date, the Department properly closed Petitioner's FAP benefits because Petitioner failed to provide the verification by the due date.

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 properly closed Petitioner's FAP benefits effective June 30, 2021.

IT IS ORDERED the Department's decision is **AFFIRMED**.

JK/mp



Jeffrey Kemm
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

Email Recipients:

MDHHS-STCLAIR-HEARINGS
D. Sweeney
M. Holden
MOAHR
BSC2

First-Class Mail Recipient:

[REDACTED]
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