



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: July 15, 2022
MOAHR Docket No.: 22-002550
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 July 14, 2022. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Keeona Remmer, Eligibility Specialist.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) case?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Petitioner started a new job in May 2022 and was also undergoing the Redetermination process.
2. On May 9, 2022, the Department issued an Employment Verification Form, DHS-38, to Petitioner with a due date of May 19, 2022
3. On May 16, 2022, the Department issued a Verification Checklist (VCL) to Petitioner requesting proof of Petitioner's loss of employment with [REDACTED] (Employer) via employment records, Employer statement, or DHS-38 Verification of Employment form with proofs due by May 26, 2022.
4. Employer was not willing to sign the forms or assist Petitioner.
5. On June 2, 2022, the Department received pay stubs from Petitioner's time with Employer but did not receive any verification of the end of Petitioner's employment.

6. On the same day, Petitioner's Redetermination interview was completed, and Petitioner advised the Department of the difficulties with her former employer.
7. On June 10, 2022, the Department issued a Notice of Case Action to Petitioner indicating that Petitioner's FAP benefits were closing effective July 1, 2022 for failure to return proofs of the end of Petitioner's employment.
8. On June 15, 2022, the Department received Petitioner's request for hearing disputing the closure of her FAP case and requesting a continuation of her FAP benefits pending her hearing.

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's FAP case was closed for failure to return requested proof of the loss of employment. Petitioner has the primary responsibility to obtain verification of income. BEM 501 (April 2022), p. 9. However, FAP benefits should not be denied or terminated because an employer or other source refuses to verify income. BEM 501, p. 10. Under BEM 501 and BAM 130, the Department is required to use collateral contacts. Collateral contacts are direct contacts with a person, organization, or agency to verify information from the client. BAM 130 (January 2022), p. 2. If collateral contacts are required, the local office is responsible for obtaining the verification. BAM 130, p. 3. If neither the client nor the local office can obtain verification despite reasonable efforts, the local office should use the best available information or if none is available, then best judgment. BAM 130, pp. 3-4.

Petitioner credibly testified that she advised the local office that the Employer was unwilling to assist her in the verification of the loss of employment. Since Petitioner was unable to verify the loss of employment due to the lack of cooperation from Employer and advised the Department of the difficulties, the local office had a duty to assist Petitioner and attempt collateral contacts or use best available information if unable to gather additional information. Therefore, the Department did not properly close Petitioner's FAP case.

Lastly, Petitioner filed a timely hearing request and requested to have her benefits continue pending her hearing. The Department failed to continue Petitioner's benefits. Since this decision reverses the Department's closure of Petitioner's FAP benefits and Petitioner had a loss of income rather than a gain in income, the Department is required to reinstate Petitioner's FAP benefits from the date of closure and effectively, Petitioner will not have lost any 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 did not act in accordance with Department policy when it closed Petitioner's FAP benefits.

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. Reinstatement and reprocess Petitioner's FAP benefits as of the date of closure;
2. Issue supplements to Petitioner for benefits not previously received; and,
3. Notify Petitioner in writing about any changes in her FAP benefits.

AMTM/cc



Amanda M. T. Marler
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 :

Interested Parties

MDHHS-Wayne-15-Greydale-Hearings
BSC4-HearingDecisions
D. Sweeney
M. Holden
MOAHR

Via-First Class Mail :

Petitioner

[REDACTED]
[REDACTED], MI [REDACTED]