



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR



Date Mailed: September 21, 2022
MOAHR Docket No.: 22-003696
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 September 19, 2022 from separate locations. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Adam Czerkes, Assistance Payments Worker.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) case for failure to return requested verifications?

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 was an ongoing FAP recipient.
2. In July 2022, Petitioner was undergoing the Redetermination process.
3. On July 12, 2022, the Department issued a Verification Checklist (VCL) to Petitioner requesting proof of her checking account and pension by July 22, 2022.
4. Petitioner attempted to comply by placing a self-addressed pre-paid envelope from the Department in the mail which contained her bank statement, a form requested by the Department, and verification of her pension.
5. The Department received the bank statement and verification of Petitioner's Retirement Survivors Disability Insurance (RSDI) income, but no bank statement.

6. On August 2, 2022, the Department issued a Notice of Case Action to Petitioner notifying her that her FAP case would close effective July 1, 2022 for failure to verify unearned income.
7. On August 19, 2022, the Department received Petitioner's request for hearing disputing the closure of her FAP benefits.

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 provide verification of income. All earned and unearned income must be verified at application, redetermination, or when a change is reported including situations where income decreases or stops. BEM 500 (April 2022), p. 14. The Department requested verification of Petitioner's income with proofs due by July 22, 2022, or ten days after it was requested pursuant to policy. BAM 130 (January 2022), p. 7. Policy states that negative action notices are sent when a client refuses to comply, or the time period provided has lapsed and the client has not made a reasonable effort to provide it. *Id.* Petitioner credibly testified that she had mailed a bank statement, form, and proof of her pension income to the Department. The Department also credibly testified that local office case workers do not receive the mail, but instead rely upon others' work to receive the mail and scan it, and that in Petitioner's case, her bank statement and Retirement Survivors Disability Insurance (RSDI) verification had been received, but not her pension statement. Given Petitioner's efforts to comply with the Department's request and her credible testimony that she sent the pension statement, the Department erred in closing Petitioner's case because Petitioner "made a reasonable effort to provide" requested verifications.

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 case.

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. Reprocess Petitioner's Redetermination;
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

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-57-Hearings
BSC4-HearingDecisions
D. Sweeney
M. Holden
MOAHR

Via-First Class Mail :

Petitioner

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