



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: November 21, 2022
MOAHR Docket No.: 22-004881
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Danielle Nuccio

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 November 17, 2022. The Petitioner appeared and represented herself. The Department of Health and Human Services (MDHHS) was represented by Kathleen Hopper, Assistant Payments Supervisor.

ISSUE

Did MDHHS act in accordance with policy in closing 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 was an ongoing recipient of FAP for a group size of six, consisting of her five minor children and herself.
2. On September 10, 2022, MDHHS issued a Notice of FAP closure if Petitioner failed to return her Semi-Annual Contact Review (SACR) to MDHHS by [REDACTED] 2022 (Exhibit A, pp. 8-9).
3. On September 21, 2022, MDHHS received Petitioner's timely submitted SACR. Due to Agency error, MDHHS failed to log that they received Petitioner's SACR.
4. On [REDACTED] 2022, MDHHS closed Petitioner's FAP case for failure to timely submit a completed SACR.

5. On October 18, 2022, MDHHS received Petitioner's timely submitted hearing request disputing the closure of her FAP case (Exhibit A, pp. 3-4).

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.

Petitioner requested a hearing regarding the closure of her FAP case, as well as her disputing the actions taken in her Medical Assistance (MA) and Direct Support Services (DSS) cases. Petitioner testified that she is no longer requesting a hearing regarding her MA and DSS cases and withdrew the hearing requests without objection.

On [REDACTED] 2022, MDHHS closed Petitioner's FAP case for failure to timely submit a completed SACR. DHHS must periodically redetermine or renew an individual's eligibility for active programs. The redetermination/renewal process includes thorough review of all eligibility factors. Redetermination, renewal, semi-annual and mid-certification forms are used to redetermine eligibility of active programs. BAM 210 (October 2022), p. 1. Benefits stop at the end of the benefit period unless a redetermination is completed and a new benefit period is certified. If the client does not begin the redetermination process, allow the benefit period to expire. BAM 210, p. 3. In this case, Petitioner's SACR or redetermination of eligibility was due to MDHHS by [REDACTED] 2022. MDHHS concedes that Petitioner submitted her completed SACR timely, but, due to Agency error, the report was not logged as received. Therefore, MDHHS closed Petitioner's case in error.

Upon realizing this error, MDHHS should have reinstated Petitioner's FAP benefits. Reinstatement restores a closed program to active status without completion of a new application. Reasons that closed programs may be reinstated are outlined in policy including for cases closed in error, redetermination packets not logged in, and a timely hearing request. BAM 205 (January 2022), p. 1. While waiting for the hearing decision, recipients must continue to receive the assistance authorized prior to the notice of negative action when the request was filed timely. Upon receipt of a timely hearing request, MDHHS must reinstate program benefits to the former level for a hearing request filed because of a negative action. BAM 600 (March 2021), p. 25. Petitioner's FAP case should have been reinstated since her case was closed in error, her

redetermination packet was not logged in, and she submitted a timely hearing request. However, MDHHS determined that Petitioner's case must be pending, rather than reinstated, because she had not returned verification of her dependent care expenses. A report is considered complete when all of the sections (including the signature section) on the MDHHS-1046 (SACR) and the MDHHS 2240-A are answered completely and required verifications are returned by the client or client's authorized representative. **If an expense has changed and the client does not return proof of the expense, if required, but all of the sections on the report are answered completely, remove the expense from the appropriate data collection screen in Bridges before running eligibility determination and benefit calculation (EDBC).** BAM 210, p. 11 (Emphasis added). In this case, MDHHS chose to close Petitioner's FAP case pending verification of the dependent care expense, rather than excluding that expense from her household budget and determining her eligibility for FAP, contrary to the procedure required by BAM 210. Therefore, MDHHS failed to act in accordance with policy in processing Petitioner's SACR.

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. Complete processing Petitioner's [REDACTED] 2022 FAP Redetermination;
2. If otherwise eligible, issue supplements to Petitioner for FAP benefits not previously received from [REDACTED] 2022 ongoing; and,
3. Notify Petitioner in writing of its decision.

Petitioner's October 18, 2022 requests for hearing regarding her MA and DSS cases are **DISMISSED**.

DN/mp



Danielle Nuccio

Administrative Law Judge

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. 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 :

DHHS
MDHHS-Oakland-District-IV-Hearings
D. Sweeney
M. Holden
MOAHR
BSC4

Via-First Class Mail :

Petitioner

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[REDACTED] MI [REDACTED]