



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: December 9, 2022
MOAHR Docket No.: 22-005006
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

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 29, 2022. The Petitioner represented herself. The Department of Health and Human Services (Department) was represented by Rachelle Blauwkamp, Eligibility Specialist and Verenie, Davis Assistance Payments Supervisor.

ISSUE

Did the Department properly determine the Petitioner's eligibility for Food Assistance Program (FAP) benefits?

FINDINGS OF FACT

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

1. The Petitioner was a recipient of FAP benefits.
2. On September 30, 2022, the Department received the Petitioner's Redetermination Application, DHS 1010, but the Petitioner did not provide verification of her pension and that her employment with [REDACTED] had ended. Department Exhibit 1.
3. On September 30, 2022, the Department Caseworker sent the Petitioner a Verification Checklist, DHS 3503, with a due date of October 10, 2022, to provide written verification of her pension and employment at [REDACTED]. Department Exhibit 2.
4. When the verifications were not received by October 20, 2022, the Department Caseworker sent the Petitioner a Notice of Case Action, DHS 1605, on October 20, 2022, that her FAP case was closed effective October 1, 2022, ongoing due to

the Petitioner's failure to provide verification of earned income and unearned income. Department Exhibit 3-4.

5. On October 25, 2022, the Department received a hearing request from the Petitioner, contesting the Department's negative action.

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, the Petitioner was a recipient of FAP benefits. On September 30, 2022, the Department received the Petitioner's Redetermination Application, DHS 1010, but did not provide verification of her pension and that her employment with [REDACTED] had ended. Department Exhibit 1. On September 30, 2022, the Department Caseworker sent the Petitioner a Verification Checklist, DHS 3503, with a due date of October 10, 2022, to provide written verification of her pension and employment at [REDACTED]. Department Exhibit 2. When the verifications were not received by October 20, 2022, the Department Caseworker sent the Petitioner a Notice of Case Action, DHS 1605, on October 20, 2022, that her FAP case was closed effective October 1, 2022, ongoing due to the Petitioner's failure to provide verification of earned income and unearned income. Department Exhibit 3-4. On October 25, 2022, the Department received a hearing request from the Petitioner, contesting the Department's negative action. BAM 105, 130, 210, 220, and 600. BEM 400 and 500.

During the hearing, the Department failed to provide a copy of the verifications submitted by the Petitioner in the hearing packet. As a result, the Administrative Law Judge could not determine if the verifications were sufficient to determine FAP eligibility. The Petitioner stated that she works for [REDACTED] not [REDACTED]. She is still receiving that income from [REDACTED], but it is not countable earned income for FAP eligibility. She crossed it out on the Redetermination Application because she thought the Department was trying to count the income. The Petitioner did not understand that the Department still must document the income even if they do not count it in determining FAP eligibility. The Petitioner did submit paperwork from her supervisor that verified that she was still receiving the income.

The Petitioner did provide verification of her pension income, but it was not current. The pension statement was from 2020/2021 for her apartment complex but was not included in the hearing packet. The Department Caseworker failed to let the Petitioner know that the Department needed a more current copy of the pension statement.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it allowed the Petitioner's FAP case to close due to failure to provide required verification to determine continued FAP eligibility.

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, of initiating a redetermination of the Petitioner's eligibility for FAP retroactive to October 1, 2022, by sending out a new Verification Checklist, DHS 3503, for the Petitioner to provide a current pension statement.

Based on policy, the Department should provide the Petitioner with written notification of the Department's revised eligibility determination and issue the Petitioner any retroactive benefits she/he may be eligible to receive, if any.

CF/cc



Carmen G. Fahie
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-Kent-Hearings
BSC3-HearingDecisions
D. Sweeney
M. Holden
MOAHR

Via-First Class Mail :

Petitioner

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