



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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██████ MI ██████

Date Mailed: February 3, 2023
MOAHR Docket No.: 22-006247
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 January 25, 2023, from Lansing, Michigan. ██████████ the Petitioner, appeared on her own behalf. The Department of Health and Human Services (Department) was represented by Kaylie Polk, Eligibility Specialist.

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-33.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefit 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. On October 28, 2022, the Department received returned mail for Petitioner from her last known address of ██████ MI ██████ (Exhibit A, pp. 2 and 8)
2. On November 2, 2022, a Verification Checklist was issued to Petitioner requesting verification of her current address or phone number by a due date of November 14, 2022. (Exhibit A, pp. 2 and 9-11)
3. On November 22, 2022, a Notice of Case Action was issued to Petitioner stating the FAP case would close effective December 1, 2022 based on the verification not being returned for the unable to locate household. (Exhibit A, pp. 12-15)

4. On December 5, 2022, the ██████ County Department office requested that the ██████ County office transfer Petitioner's case because she had applied for State Emergency Relief (SER) in ██████ County on ██████ 2022. (Exhibit A, p. 2)
5. On December 5, 2022, Petitioner's case was transferred to ██████ County and a Reassignment Letter was sent. (Exhibit A, pp. 2 and 16-18)
6. On December 20, 2022, Petitioner requested a hearing regarding the closure of FAP benefits. (Exhibit A, pp. 4-6)
7. On December 21, 2022, ██████ County advised that they would be transferring the case back to ██████ County for the hearing request. (Exhibit A, p. 2)
8. On December 22, 2022, the Department reinstated Petitioner's FAP case because the new address was provided on the SER application. The Department utilized current verification of household income to determine FAP eligibility. (Exhibit A, pp. 2 and 19-28)
9. The Department approved \$23.00 of FAP benefits for December 2022 but closed the FAP case effective January 1, 2023, due to income in excess of program limits. On January 9, 2023, a Benefit Notice was sent to Petitioner regarding the FAP determination because a Notice of Case Action was not generated on December 22, 2022. (Exhibit A, pp. 2 and 29-32)

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 general, verification is to be obtained when: required by policy; required as a local office option; and when information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. Verification is usually required at application and at redetermination as well as for a reported change affecting eligibility or benefit level. The Department must tell the client what verification is required, how to obtain it, and the due date. The client must obtain required verification, but the Department must assist if the client needs and requests help. If neither the client nor the Department can obtain

verification despite a reasonable effort, the Department should use the best available information. If no evidence is available, the Department is to use their best judgment. BAM 130, January 1, 2022, pp. 1-3.

For FAP, the Department must allow the client 10 calendar days (or other time limit specified in policy) to provide the verification requested. Verifications are considered timely if received by the date they are due. The Department is to send a negative action notice when the client indicates refusal to provide a verification, or the time period given has elapsed and the client has not made a reasonable effort to provide it. If the client contacts the department prior to the due date requesting an extension or assistance in obtaining verifications, the specialist is to assist the client with the verifications but cannot grant an extension. The specialist is to explain to the client they will not be given an extension and their case will be denied once the Verification Checklist Due date is passed. Also, explain that eligibility will be determined based on their compliance date if they return required verifications. The Department is to re-register the application if the client complies within 60 days of the application date; see BAM 115, Subsequent Processing. BAM 130, p. 7.

A non-categorically eligible Senior/Disabled/Veteran (SDV) FAP group must have income below the net income limits. A non-categorically eligible, non-SDV FAP group must have income below the gross and net income limits. BEM 550, January 1, 2022, p. 1.

The Department is to always calculate income on a calendar month basis to determine eligibility and benefit amounts. Use income from a month specified in this item for the benefit month being considered. Budget the entire amount of earned and unearned countable income. Gross countable earned income is reduced by a 20 percent earned income deduction. Every case is allowed the standard deduction shown in Reference Tables Manual (RFT) 255. BEM 550, p. 1.

On October 28, 2022, the Department received returned mail for Petitioner from her last known address of [REDACTED] MI [REDACTED] (Exhibit A, pp. 2 and 8). Accordingly, information regarding Petitioner's residence was unclear. In accordance with the BAM 130 policy, on November 2, 2022, a Verification Checklist was issued to Petitioner requesting verification of her current address or phone number by a due date of November 14, 2022. (Exhibit A, pp. 2 and 9-11). The Department did not receive anything in response to this verification request by the due date. Accordingly, on November 22, 2022, a Notice of Case Action was issued to Petitioner stating the FAP case would close effective December 1, 2022 based on the verification not being returned for the unable to locate household. (Exhibit A, pp. 12-15).

However, on [REDACTED] 2022, Petitioner applied for SER in [REDACTED] County. (Exhibit A, p. 2). In accordance with policy, the Department reinstated Petitioner's FAP case because the new address was provided on the SER application. The Department utilized current verification of household income to determine FAP eligibility. (Exhibit A, pp. 2 and 19-28). The Department approved \$23.00 of FAP benefits for December 2022

but closed the FAP case effective January 1, 2023, due to income in excess of program limits. On January 9, 2023, a Benefit Notice was sent to Petitioner regarding the FAP determination because a Notice of Case Action was not generated on December 22, 2022. (Exhibit A, pp. 2 and 29-32).

Petitioner indicated she had concerns regarding the determination for her SER application and had filed a hearing request. (Petitioner Testimony). As discussed, a separate hearing will be held for the hearing request Petitioner filed regarding the SER determination.

Petitioner questioned whether the Department should have budgeted expected income when making the SER determination. Department policy states that a group's financial eligibility and monthly benefit amount are determined using: actual income (income that was already received); and prospected income amounts (not received but expected). BEM 505, October 1, 2022, p. 1. Accordingly, the Department properly included expected income when Determining Petitioner's eligibility for FAP.

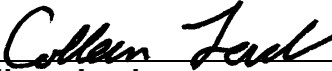
Petitioner indicated there may soon be changes that may affect eligibility for FAP, such as when additional household members are added. (Petitioner Testimony). As discussed, when Petitioner has an open benefit case, she should notify the Department whenever there are changes that may affect ongoing eligibility. In general, Department policy requires the client to report such changes within 10 days. BEM 105, April 1, 2022, pp. 11-13. When there is no ongoing benefit case, Petitioner may wish to reapply for benefits and provide current information at that time.

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 acted in accordance with Department policy when it closed Petitioner's FAP case based on the information available at that time.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

CL/ml



Colleen Lack
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 :

DHHS
Kim Cates
Bay County DHS
1399 W. Center Road
Essexville, MI 48732
MDHHS-Bay-Hearings@michigan.gov

Interested Parties
BSC2
M Holden
D Sweeney
MOAHR

Via First Class Mail :

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