



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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Date Mailed: March 3, 2023  
MOAHR Docket No.: 23-000290  
Agency No.: ██████████  
Petitioner: ██████████

**ADMINISTRATIVE LAW JUDGE: Christian Gardocki**

**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 hearing was held via telephone conference line on March 1, 2023. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Cathy Burr, supervisor, and Elizabeth Ahrens, specialist.

**ISSUE**

The issue is whether MDHHS properly denied Petitioner's application for Food Assistance Program (FAP) benefit replacement.

**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 December 8, 2022, Claimant suffered a fire at her residence.
2. On ██████████ 2022, Petitioner applied for FAP replacement benefits claiming a loss of food.
3. On December 29, 2022, MDHHS denied Petitioner's request for FAP replacement benefits.
4. On January 17, 2023, Petitioner requested a hearing to dispute the denial of FAP replacement benefits.

## CONCLUSIONS OF LAW

The 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. MDHHS administers the FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011. FAP policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute a denial of FAP replacement benefits. Exhibit A, pp. 3-8. Petitioner submitted a State Emergency Relief (SER) application to MDHHS on December 21, 2022 claiming a residential fire destroyed her food.<sup>1</sup> Exhibit A, pp. 17-22. An Application Notice and Quick Note dated December 29, 2022, denied Petitioner's application due to being untimely. Exhibit A, pp. 10-14.

FAP recipients may be issued a replacement of FAP benefits when food purchased with FAP benefits was destroyed in a domestic misfortune or disaster and reported timely. BAM 502 (January 2022) p. 1. Domestic misfortunes or disasters include events which occur through no fault of the client (e.g., fires, floods or electrical outages). *Id.* FAP replacement is processed only if the client reports the loss timely. *Id.* Timely means within 10 days if the loss is due to domestic misfortune or disaster. *Id.* However, if day 10 falls on a weekend or holiday and it is reported on the next workday, it is still considered timely.

It was not disputed that Petitioner experienced a fire on December 8, 2022, which caused Petitioner an unspecified loss of food. MDHHS testified that it learned of Petitioner's residential fire only when Petitioner submitted an SER application on [REDACTED] 2022. Petitioner did not dispute MDHHS's testimony.

Petitioner testified that any delay in reporting was caused by circumstances beyond her control. Petitioner credibly testified she was unaware of pursuing food replacement until she received an email from the Red Cross on December 14, 2022. Petitioner also credibly testified that her vehicle key and phone were damaged in the fire and that she was locked-out of her residence until December 15, 2022 due to safety concerns. Petitioner's testimony suggested good cause for any delay in reporting the fire to MDHHS. Though Petitioner's delay in reporting was reasonable, MDHHS offers no exceptions for good cause to its deadline seeking FAP benefit replacement.

The evidence established that Petitioner experienced a loss of food due to a fire on December 8, 2022. The evidence further established that Petitioner did not report the loss of food to MDHHS until 13 days after the fire. Thus, Petitioner was untimely in reporting the loss and MDHHS properly denied Petitioner's application requesting FAP benefit replacement.

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<sup>1</sup> Though Petitioner requested FAP replacement benefits via SER application, Petitioner's request does not fall under SER policy.

**DECISION AND ORDER**

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly denied Petitioner's request for FAP benefit replacement dated [REDACTED] 2022. The actions taken by MDHHS are **AFFIRMED**.

CG/mp



**Christian Gardocki**  
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**  
MDHHS-Washtenaw-Hearings  
D. Sweeney  
M. Holden  
MOAHR  
BSC4

**Via-First Class Mail :**

**Petitioner**

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