



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: March 8, 2023  
MOAHR Docket No.: 23-000295  
Agency No.: [REDACTED]  
Petitioner: [REDACTED] [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Aaron McClintic

### **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 March 1, 2023, from Lansing, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Ricarla Carter, AP Worker. Department Exhibit 1, pp. 1-16 was received and admitted.

### **ISSUE**

Did the Department properly close Petitioner's Food Assistance Program case for failing to return redetermination paperwork?

### **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 a recipient of MiCAP FAP benefits.
2. On October 4, 2022, MiCAP Redetermination paperwork was sent to Petitioner with a November 1, 2022, due date.
3. Petitioner credibly testified at hearing that she submitted the redetermination paperwork a few days after receiving it, well before the November 1, 2022, due date, by sending it in the mail in the envelope provided to her.
4. On November 30, 2022, Petitioner's FAP case closed.
5. On January 20, 2023, Petitioner requested hearing disputing the closure of 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.

### **Timeliness of Verifications**

#### **FIP, SDA, RCA, Child Development and Care (CDC), FAP**

Allow the client 10 calendar days (**or** other time limit specified in policy) to provide the verification that is requested.

For CDC, if the client cannot provide the verification despite a reasonable effort, extend the time limit at least once.

For CDC, at redetermination, if a signed MDHHS-1010 or application is received, generate a VCL and allow 10 calendar days for the client to provide the verifications. If the verifications are not returned or are returned as incomplete, two 10 calendar day extensions must be given, sending VCLs after each verification due date. Clients are not required to request the extensions.

Verifications are considered to be timely if received by the date they are due. For electronically transmitted verifications (fax, email or Mi Bridges document upload), the date of the transmission is the receipt date. Verifications that are submitted after the close of regular business hours through the drop box or by delivery of a MDHHS representative are considered to be received the next business day.

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. BAM 130

### **Benefit Period**

Once an individual is determined eligible for MiCAP, eligibility will be for a 36-month benefit period. A redetermination of eligibility will be completed every 36 months. Food Assistance benefits continue for the duration of the benefit period unless an individual is no longer eligible for MiCAP or fails to return the DHS-542, MiCAP Redetermination Form. BEM 618

In this case, Petitioner credibly testified at hearing that she completed the MiCAP redetermination paperwork and sent it by mail in the envelope provided to her by the Department within a few days of receiving it, well before the November 1, 2022, due

date. Therefore, the undersigned Administrative Law Judge does not find that Petitioner failed to return the DHS-542 form and her case should not have closed. BEM 618

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 for failing to return verifications. BEM 618

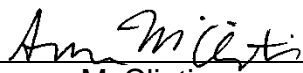
### **DECISION AND ORDER**

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. Reinstate Petitioner's FAP case going back to the date of closure.
2. Issue Petitioner a FAP supplement for any missed benefits.

AM/nr

  
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Aaron McClintic  
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**  
Nicolette Vanhavel  
235 S Grand Ave Ste 1207  
Lansing, MI 48933  
**MDHHS-MiCAP-**  
**Hearings@michigan.gov**

**Interested Parties**

MiCap  
M. Holden  
D. Sweeney  
MOAHR

**Via-First Class Mail :**

**Petitioner**

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