



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 10, 2023
MOAHR Docket No.: 23-000647
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Linda Jordan

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 on March 2, 2023 via teleconference. Petitioner appeared and represented herself. Kelly Reynolds, Lead Worker, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department).

ISSUES

1. Did Petitioner submit a timely Request for Hearing?
2. If so, did MDHHS properly close 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. On June 8, 2022, Petitioner applied for FAP benefits (Exhibit A, p. 7).
2. On June 8, 2022, MDHHS approved Petitioner for FAP benefits for a household of two, effective June 8, 2022 through June 30, 2022 (Exhibit A, p. 10).
3. On September 19, 2022, MDHHS sent Petitioner a Notice of Case Action indicating that her FAP case would be closed due to missing verifications, effective July 1, 2022 ongoing (Exhibit A, pp. 22-23).

4. On December 15, 2022, Petitioner submitted a request for hearing regarding the FAP closure by dropping off a letter to her local MDHHS office.
5. On January 31, 2023, Petitioner verbally requested a hearing regarding her FAP case closure (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).

Jurisdiction

Regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in Mich Admin Code, R 792.10101 to R 792.10137 and R 792.11001 to R 792.11020. Rule 792.11002(1) provides as follows:

An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance is denied or is not acted upon with reasonable promptness, has received notice of a suspension or reduction in benefits, or exclusion from a service program, or has experienced a failure of the agency to take into account the recipient's choice of service.

Generally, a client's request for hearing must be in writing and signed by an adult member of the eligible group or authorized hearing representative (AHR). BAM 600 (March 2021), p. 2. However, there is an exception for FAP. Request for hearings for FAP may be written or verbal. *Id.* Additionally, policy provides that a request for hearing must be received in the MDHHS local office within 90 days of the date of the written notice of case action. *Id.*, p. 6.

In this case, MDHHS argued that Petitioner's Request for Hearing must be dismissed because it was not submitted in a timely manner. MDHHS presented evidence that Petitioner made a verbal request for a hearing regarding her FAP case closure on January 31, 2023 (Exhibit A, p. 3). MDHHS asserted that Petitioner's request was untimely because MDHHS notified her of the case closure by mailing a Notice of Case Action on September 19, 2022 and the deadline for appeal was December 19, 2022 (Exhibit A, pp. 22-23).

At the hearing, Petitioner testified that the verbal request on January 31, 2023 was not the first time that she requested a hearing on this matter. Petitioner testified that she submitted a written request for hearing regarding her FAP case closure to a local MDHHS office on December 15, 2022. Although a copy of the request was not admitted

into evidence, Petitioner read the request into the record. MDHHS did not acknowledge receipt of the letter, however, Petitioner's testimony regarding the letter was credible and un rebutted. Therefore, Petitioner has demonstrated that she submitted a timely hearing request to MDHHS and MOAHR has jurisdiction to hear the case.

The Food Assistance Program (FAP)

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 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, MDHHS alleged that it closed Petitioner's FAP case because it had not received certain requested verifications.

MDHHS is required to obtain verification when it is required by policy or information is unclear or incomplete. BAM 130 (January 2022), p. 1. To obtain verification, MDHHS must tell the client what verification is required, how to obtain it and the due date. *Id.*, p. 3. MDHHS is required to use a VCL to request verification from clients. *Id.* If the individual indicates the existence of a disability that impairs their ability to gather verifications and information necessary to establish eligibility for benefits, MDHHS must offer to assist the individual in the gathering of such information. *Id.*, p. 1. The client must obtain the requested verification, but the local office must assist the client if they need and request help. *Id.*, p. 3. If neither the client nor the local office can obtain verification despite a reasonable effort, MDHHS must use the best available information. *Id.* If no evidence is available, MDHHS must use its best judgement. *Id.*

MDHHS allows the client ten calendar days to provide the requested verification. *Id.*, p. 7. Verifications are considered timely if received by the date that they are due. *Id.* MDHHS sends a negative action notice when the client indicates a refusal to provide the requested verification or the time period given on the VCL has lapsed and the client has not made a reasonable effort to provide it. *Id.* For FAP, if the client contacts MDHHS prior to the due date requesting an extension or assistance in obtaining verifications, MDHHS is required to assist the client but may not grant an extension. *Id.* If the client returns the requested verifications, eligibility will be determined based on the compliance date, following subsequent processing rules. *Id.*

Here, MDHHS closed Petitioner's case for an alleged failure to return requested verifications. MDHHS testified that it sent Petitioner a VCL on June 8, 2022, which requested the last 30 days of income for a household member and that proofs were due back by June 21, 2022 (Exhibit A, p. 1). Petitioner testified that she was confused by the request and attempted to contact MDHHS for clarification but struggled to reach anyone. Petitioner submitted paystubs evidencing the household member's earned income on July 14, 2022 (Exhibit A, pp. 20-21). MDHHS testified that these paystubs were insufficient because they were not for the requested time period. Petitioner testified that MDHHS never informed her that the paystubs were insufficient. Petitioner's

testimony on this subject was credible and un rebutted. Based on the evidence provided, the record shows that Petitioner was attempting to comply with MDHHS' request for information and that MDHHS failed to properly assist Petitioner.

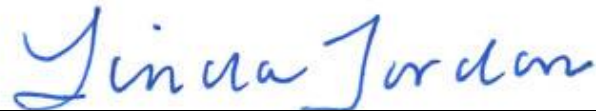
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that MDHHS did not act in accordance with Department policy when it closed Petitioner's FAP case.

DECISION AND ORDER

Accordingly, the MDHHS's decision is **REVERSED**.

MDHHS 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, effective July 1, 2022 ongoing;
2. Redetermine Petitioner's eligibility for FAP, effective July 1, 2022 ongoing;
3. Issue supplements to Petitioner for any FAP benefits that she was eligible to receive but did not, from July 1, 2022 ongoing; and
4. Notify Petitioner of its decision in writing.



Linda Jordan
Administrative Law Judge

LJ/tm

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.

