



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: April 7, 2023
MOAHR Docket No.: 23-001186
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 30, 2023 via teleconference. Petitioner appeared and represented herself. Krystal Jackson, Assistance Payments Worker, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department).

ISSUE

Did MDHHS properly terminate Petitioner's 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. Petitioner was an ongoing recipient of FAP benefits.
2. On December 5, 2022, MDHHS sent Petitioner a redetermination packet, which requested that she complete the form and return it to MDHHS by December 25, 2022 (Exhibit A, p. 4).
3. On January 31, 2023, MDHHS terminated Petitioner's FAP benefits and closed her FAP case for failure to return the redetermination packet by the deadline (Exhibit A, p. 1).
4. On February 16, 2023, Petitioner filed a Request for Hearing to dispute the closure of her FAP case (Exhibit A, p. 3).

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. 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 terminated Petitioner's FAP benefits and closed her case, effective January 31, 2023 for failure to return the redetermination packet.

MDHHS is required to periodically redetermine or renew an individual's eligibility for active programs. BAM 210 (October 2022), p. 1. The redetermination/renewal process includes a thorough review of all eligibility factors. *Id.* For most programs, a complete redetermination or renewal is required at least every 12 months. *Id.*, p. 3. For FAP, benefits stop at the end of the benefit period unless a redetermination is completed and a new benefit period is certified. *Id.* If the client does not begin the redetermination process, MDHHS allows the benefit period to expire. *Id.* Late redeterminations are processed according to subsequent process rules. *Id.*, pp. 22-23. Local offices must assist clients who need and request help to complete applications, forms and obtain verifications. *See generally*, BAM 130 (January 2022).

Here, MDHHS alleged that it did not receive Petitioner's redetermination packet by the deadline. Petitioner disputed this allegation and credibly testified that she mailed the packet to MDHHS prior to deadline. She also testified that she attempted to call her caseworker multiple times after she mailed the packet, but she was unable to reach anyone. Petitioner's testimony was credible and unrebutted.

Although neither party is responsible for lost mail, the record shows that Petitioner attempted to contact MDHHS for assistance but was unable to reach anyone. MDHHS is required to assist clients if they need and request assistance. *See generally*, BAM 130. MDHHS failed to show that it provided the necessary assistance to Petitioner as required by policy.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Petitioner's FAP case.

DECISION AND ORDER

Accordingly, MDHHS' 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 January 31, 2023;
2. Redetermine Petitioner's eligibility for FAP benefits from January 31, 2023 ongoing, requesting additional verification from Petitioner, if necessary;
3. Supplement Petitioner for any FAP benefits that she was eligible to receive but did not, from January 31, 2023 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.

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

