



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: April 25, 2023
MOAHR Docket No.: 23-001624
Agency No.: ██████████
Petitioner: ██████████ ██████████

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 April 19, 2023, from Lansing, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Kimberly Polasek. Department Exhibit 1, pp. 1-30 was received and admitted.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefits for failing to verify assets?

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 receiving FAP benefits.
2. On ██████████ 2022, Petitioner submitted her renewal application.
3. On December 1, 2022, a verification checklist was sent to Petitioner with a December 12, 2022, due date requesting assets verifications.
4. On December 6, 2022, Petitioner submitted pay stubs and a screen shot of her bank account from her phone that was not dated and did not have her account number.
5. On January 3, 2023, a Notice of Case Action was sent to Petitioner informing her that her case closed effective January 1, 2023, for failure to verify assets.

6. On March 20, 2023, Petitioner requested hearing disputing the closure of FAP benefits.
7. Petitioner provided additional bank account asset verifications on January 25, 2023, and the Department agreed to reinstate her case effective February 1, 2023.

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

In this case, the Department located the asset verifications submitted by Petitioner on January 25, 2023, and agreed to reinstate benefits going back to February 1, 2023, so the only month in dispute in January 2023.

Petitioner provided a screen shot of her bank account via the Mibridges interface on December 6, 2022. The screen shot did not have identifying information such as the account number and the date. Petitioner's submission was prior to the due date and well prior to her case closing. The Department should have followed up with Petitioner and explained why this verification was not acceptable and what was required. Petitioner should have been given an opportunity to provide the asset verification prior to her case closing. Petitioner did not refuse to provide a verification or fail to make a reasonable effort to provide the verification prior to the time period given, therefore the closure was improper and incorrect. BAM 130

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 asset verifications.

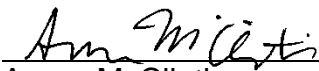
DECISION AND ORDER

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 a supplement for any missed benefits.

AM/nr



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
Rose Ward
Newaygo County DHS
1018 Newell
White Cloud, MI 49349
**MDHHS-Newaygo-
Hearings@michigan.gov**

Interested Parties
Newaygo County DHHS
BSC3
M. Holden
D. Sweeney
MOAHR

Via-First Class Mail :

Interested Party

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