



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: May 2, 2023
MOAHR Docket No.: 23-001631
Agency No.: [REDACTED]
Petitioner: [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 April 25, 2023, from Lansing, Michigan. The Petitioner was represented by himself. The Department of Health and Human Services (Department) was represented by Melissa Stanley Hearing Facilitator. Department Exhibit 1, pp. 1-28 was received and admitted.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) case for failing to return verifications?

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 FAP benefits.
2. On August 1, 2022, a semi-annual contact notice was sent to Petitioner with a due date of August 22, 2022.
3. On September 10, 2022, Notice of Food Assistance Program closure was sent to Petitioner informing him that his FAP benefits would be closing September 30, 2022.
4. On September 30, 2022, Petitioner's FAP case closed.
5. On November 3, 2022, Petitioner submitted the semi-annual contact information for his case.

6. On November 3, 2022, Petitioner was added to the case of his live together partner [REDACTED] [REDACTED] but his children were not added to that case.
7. On March 20, 2023, Petitioner requested hearing disputing the closure of his FAP benefits.
8. On March 27, 2023, Petitioner's children were added to [REDACTED] [REDACTED] case going back to November 3, 2022. (Ex. 1, p. 14)
9. On March 27, 2023, Notice of Case Action was sent to [REDACTED] [REDACTED] informing her that FAP was approved for a group size of 6 for April 1, 2023, and ongoing.

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.

Deadlines for Requesting a Hearing

All Programs

The client or AHR has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received in the local office within the 90 days; see Where to File a Hearing Request, found in this item. BAM 600

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.

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

Exception: 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, Petitioner's FAP case closed on September 30, 2022. If Petitioner was disputing the closure of his FAP he was required to request a hearing within 90 days of that closure which would be December 29, 2022. Petitioner requested a hearing on March 20, 2023, more than 90 days after the closure, therefore Petitioner's request for hearing was untimely. BAM 600

Based on the documents provided by the Department it appears that Petitioner and his children were added to the case of his live together partner [REDACTED] [REDACTED] on March 27, 2023, retroactively to November 3, 2022. (Ex. 1, p.14) If Petitioner and Ms. [REDACTED] dispute that this happened then Ms. [REDACTED] should request a hearing on her case.

Petitioner testified at hearing that he was given the run around and was told by Department workers to be patient while they processed the changes to Ms. [REDACTED] case of adding him and his children. Petitioner testified that based on those assurances he did not pursue an appeal of the closure of his case sooner. It is unclear what Petitioner was told because nothing was reflected in the case notes for his case, however if Petitioner wished to dispute the closure of his case, he needed to do so within 90 days and he failed to do so.

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 acted in

accordance with Department policy when it closed Petitioner's FAP case on September 30, 2022, for failing to return semi-annual contact information prior to the deadline. BAM 130

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

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
Elisa Daly
411 East Genesee
Saginaw, MI 48607
**MDHHS-Saginaw-
Hearings@michigan.gov**

Interested Parties
Saginaw County DHHS
BSC2
M. Holden
D. Sweeney
MOAHR

Via-First Class Mail :

Petitioner

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