



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 15, 2023
MOAHR Docket No.: 23-001784
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 May 9, 2023, from Lansing, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by April Sprague Hearing Facilitator. Department Exhibit 1, pp. 1-57 was received and admitted.

ISSUE

Did the Department properly process Petitioner's Food Assistance Program (FAP) case for closure due to lottery winnings?

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 March 20, 2023, Petitioner received information that Petitioner won \$10,000 in the Michigan lottery on December 6, 2022.
3. On March 20, 2023, Notice of Case Action was sent to Petitioner informing her that her FAP case was closing effective April 1, 2023, due to lottery winnings in her name.
4. On March 24, 2023, Petitioner requested hearing disputing the closure of FAP benefits.

5. Petitioner testified at hearing that she presented the winning lottery ticket to the lottery office and a check was issued in her name for \$7,000 but she signed the check over to a friend who deposited the check in his bank account, and she received no cash. Petitioner testified that her friend paid tax on the lottery winnings, and she did not.

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.

FAP

All FAP groups.

If the group's single winnings are each less than \$4,250, send a verification checklist request to determine if the client is over the asset limit. Follow the Lump Sum/Accumulated Benefits Field Reference Guide for budgeting located at the Office of Workforce Development and Training website.

If the group has a single winning of \$4,250 or more, take appropriate action to close the case; clients must be given timely notice. Multiple winnings in the same day or other days are treated separately as single winnings. BAM 809

Department policy

FAP ONLY

All FAP groups, no matter if they have an asset test, must report when they receive substantial lottery or gambling winnings by the 10th of the following month after the group receives the winnings. Substantial lottery or gambling winnings is currently \$4,250 for a single payment. See Glossary regarding definition of substantial lottery or gambling winnings.

When MDHHS learns of a FAP group receiving a single lottery or gambling winning of \$4,250 or more, close the FAP case, giving timely notice for the negative action.

Regaining Eligibility

All FAP groups closed for receiving substantial lottery or gambling winnings remain ineligible until they meet allowable income and asset tests. The next time the group reapplies, they will not be considered categorically eligible. The group's eligibility must be determined under regular FAP rules. It applies only to the first time the group is approved following the loss of eligibility for substantial lottery and gambling winnings.

This means SDV groups must have countable assets of less than \$4,250 and all other groups must have assets less than \$2,750. Also, the group must have net income of less than the monthly net income limit, see RFT 250. This applies only to the first time the group is certified following the loss of eligibility for substantial lottery winnings. BEM 403

On March 20, 2023, the Department received a lottery match for Petitioner for a \$10,000 lottery winning on December 6, 2022. Petitioner admitted that a check for \$7,000 was issued in her name when she presented a winning ticket to the lottery office. Based on that match, the Department was correct to process Petitioner's FAP case for closure. BEM 403, BAM 809


Petitioner testified at hearing that she presented the winning lottery ticket to the lottery office and a check was issued in her name for \$7,000 but she signed the check over to a friend who deposited the check in his bank account, and she received no cash. Petitioner testified that her friend paid income tax on the lottery winnings, and she did not. Petitioner provided a copy of her friend's bank statement to the Department, but it did not contain the required information. The Department representative testified at hearing that if Petitioner was able to verify all the information, she presented at hearing it is possible that her case could be reinstated without any gap in coverage. Having said that, the issue the undersigned administrative law judge was assigned to decide was whether there was a basis for closing Petitioner's FAP case due to the lottery match in Petitioner's name and based on Department policy there was a basis to close Petitioner's case.

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 processed Petitioner's FAP case for closure due to Petitioner receiving lottery winnings in her name.

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
Janice Collins
Genesee County DHHS Union St
District Office
125 E. Union St 7th Floor
Flint, MI 48502
**MDHHS-Genesee-UnionSt-
Hearings@michigan.gov**

Interested Parties
Genesee Union St. County DHHS
BSC2
M. Holden
D. Sweeney
MOAHR

Via-First Class Mail :

Petitioner
[REDACTED]
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[REDACTED], MI [REDACTED]