



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.: 23-001786
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 April 26, 2023 via teleconference. Petitioner appeared and represented herself. Haysem Hosney, Hearings Facilitator, represented 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 or about January 23, 2023, MDHHS sent Petitioner a Verification Checklist (VCL) requesting proof of her pension.
3. On or about February 1, 2023, MDHHS terminated Petitioner's FAP benefits.
4. On February 16, 2023, Petitioner submitted a new FAP application (Exhibit A, pp. 8-18).
5. On February 16, 2023, MDHHS issued a Notice of Case Action, indicating that Petitioner was approved for FAP benefits from February 16, 2023 to February 28, 2023 and March 1, 2023 to January 31, 2024 (Exhibit A, p. 19).

6. On March 27, 2023, Petitioner filed a Request for Hearing disputing the termination of her FAP benefits (Exhibit A, pp. 6-7).

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 because of an alleged failure to provide requested verifications. After the termination, Petitioner reapplied for FAP and her application was approved, from February 16, 2023 ongoing. The termination created a gap in Petitioner's FAP benefits from February 1, 2023 to February 15, 2023. Although Petitioner stated in her Request for Hearing that she did not receive FAP benefits from January, February and March 2023, MDHHS introduced evidence to show that she received her ongoing benefit rate and supplemental benefits in January 2023 and February 2023, and that she received her ongoing benefit rate in March 2023 (Exhibit A, p. 24). The only remaining dispute is the termination of her FAP benefits on or about February 1, 2023.

MDHHS must obtain verification when it is required by policy or information is unclear or incomplete. BAM 130 (January 2022), p. 1. Verification is usually required at application/redetermination and when a reported change affects eligibility or benefit level. *Id.* To obtain verification, MDHHS must tell the client what verification is required, how to obtain it and the due date. *Id.*, p. 3. 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 information 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.* Before making a final determination regarding eligibility, MDHHS must give clients a reasonable opportunity to resolve any discrepancies between their statements and information from another source. *Id.*, p. 9.

Here, MDHHS testified that it requested verification of Petitioner's pension by sending a VCL on January 23, 2023, and that it did not receive the requested verification by the deadline. Petitioner disputed this and said that she sent MDHHS several bank statements which showed the exact amount of her pension. MDHHS testified that the bank statements were insufficient and that it required a letter from the pension company. MDHHS did not provide a copy of the VCL, and therefore, it is unclear from the record if the MDHHS specifically requested a letter from the pension company. It is also unclear if MDHHS told Petitioner that a bank statement was insufficient before closing her case. Under these circumstances, MDHHS has not established that it properly informed Petitioner of what documents were required and the record reflects that Petitioner was attempting to cooperate with MDHHS' request.

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 terminated Petitioner's FAP benefits.

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 beginning February 1, 2023 and redetermine Petitioner's eligibility for FAP benefits from February 1, 2023 to February 15, 2023;
2. Issue supplements to Petitioner for an FAP benefits that she was eligible to receive but did not, from February 1, 2023 to February 15, 2023; and
3. Notify Petitioner of its decision in writing.



LJ/tm

Linda Jordan
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

