



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 26, 2023  
MOAHR Docket No.: 23-001821  
Agency No.: [REDACTED]  
Petitioner: [REDACTED] [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 herself. The Department of Health and Human Services (Department) was represented by Laura Lawrence, Family Independence Specialist. Department Exhibit 1, pp. 1-15 was received and admitted.

### **ISSUE**

Did the Department properly deny Petitioner's request for Food Assistance Program (FAP) replacement benefit?

### **FINDINGS OF FACT**

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. From February 22, 2023, through February 25, 2023, Petitioner experienced a power outage.
2. On March 9, 2023, Petitioner submitted a Food Replacement Affidavit. (Ex. 1, p.11)
3. On March 9, 2023, a Benefit Notice was sent to Petitioner informing her that her request for food replacement was denied because the request was untimely. (Ex. 1, pp. 7-10)
4. On March 20, 2023, Petitioner requested hearing disputing the denial of her food replacement request. (Ex. 1, 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. 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.

### **DEPARTMENT POLICY**

Food Assistance recipients may be issued a replacement of Food Assistance Program (FAP) benefits when food purchased with FAP benefits has been destroyed in a domestic misfortune or disaster and reported timely. See [BAM 401E, Electronic Benefit Transfer Issuance System](#), for policy regarding replacement of Bridge cards.

#### **Client Responsibilities**

Replacements and reauthorizations are processed **only** if the client reports the loss timely. Timely means within 10 days if the loss is due to domestic misfortune or disaster. However, if day 10 falls on a weekend or holiday and it is reported on the next workday, it is still considered timely.

#### **Approval and Denial of Replacements**

If approving or denying a replacement, send the client a MDHHS-176, Client Notice, within 10 days of the client's request. BEM 502

In this case, Petitioner's power was out beginning on February 22, 2023. Policy dictates that the deadline for requesting food replacement begins on the day following the beginning of the power outage which in this case would be February 23, 2023. Recipients who are requesting food replacement are required to request food

replacement within 10 days of the day following the beginning of the power outage. Petitioner submitted her food replacement affidavit on March 9, 2023, which was more than 10 days after the day following the beginning of the power outage, therefore the denial of food replacement because the request was untimely was proper and correct and consistent with Department policy. BAM 502 Petitioner raised an issue at hearing because she was not made aware of the food replacement benefit until after the deadline had passed. The Department has no affirmative duty to inform recipients of all benefits they may be potentially eligible for.


An inquiry was made to the policy unit about whether there could be an exception, that request was denied. (Exhibit 1, pp. 12-15) The undersigned administrative law judge has no authority override department policy to award Petitioner the benefit based on an exception.

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 denied Petitioner's FAP replacement request because it was untimely.

**DECISION AND ORDER**

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

AM/nr

  
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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**  
Pam Farnsworth  
Monroe County DHHS  
903 Telegraph  
Monroe, MI 48161  
**MDHHS-Monroe-  
Hearings@michigan.gov**

**Interested Parties**  
Monroe County DHHS  
BSC4  
M. Holden  
D. Sweeney  
MOAHR

**Via-First Class Mail :**

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