



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
MI [REDACTED]

Date Mailed: May 16, 2023
MOAHR Docket No.: 23-002044
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun

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 10, 2023, from Detroit, Michigan. Petitioner did not appear for the hearing. Petitioner was represented by [REDACTED], Authorized Hearing Representative (AHR). The Department of Health and Human Services (Department) was represented by Danielle Moton, Assistance Payments Worker.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) case?

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. In connection with a redetermination, Petitioner's eligibility to receive FAP benefits was reviewed.
2. On or around October 10, 2022, Petitioner returned a completed redetermination to the Department and on November 7, 2022, participated in a redetermination interview.
3. Based on information obtained during the interview, on or around November 7, 2022, the Department sent Petitioner a Verification Checklist (VCL) instructing her to submit proof of donation or contribution from an individual outside the group by November 17, 2022. (Exhibit A, pp. 11-13)
4. The Department asserted that it did not receive the requested verifications by the November 17, 2022, due date.

5. On or around December 5, 2022, the Department sent Petitioner a Notice of Case Action informing her that effective December 1, 2022, her FAP case would be closed because failed to submit requested verification. (Exhibit A, pp. 5-10)
6. On or around February 22, 2023, the Department received the requested verification of donation or contribution.
7. On or around April 7, 2023, Petitioner requested a hearing disputing the Department actions with respect to her FAP case. (Exhibit A, p.3-4)

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.

In this case, Petitioner requested a hearing disputing the closure of her FAP case effective December 1, 2022.

The Department must periodically redetermine or renew an individual's eligibility for active programs. The redetermination/renewal process includes a thorough review of all eligibility factors. Redetermination, renewal, semi-annual and mid-certification forms are often used to redetermine eligibility of active programs. BAM 210 (October 2022), p. 1. Additional verifications may be required at redetermination or renewal. For FAP cases, verifications must be provided by the end of the current benefit period **or** within 10 days after they are requested, whichever allows more time. The Department will issue a DHS-3503, Verification Checklist after the redetermination interview for any missing verifications allowing 10 days for their return. BAM 210, pp. 17-18. FAP benefits stop at the end of the benefit period unless a redetermination is completed, verifications received, and a new benefit period is certified. BAM 210, pp. 2-4. The Department will automatically close the FAP case without sending a Notice of Case Action. BAM 210, p.10-14.

The Department representative testified that in connection with the redetermination, Petitioner's eligibility to receive FAP benefits was reviewed, and based on the information provided to the Department during the interview, it sent Petitioner the VCL dated November 7, 2022, instructing her to submit verification of the donation or


contribution from an individual outside of the household by November 17, 2022. The Department testified because it did not receive the requested verifications by the due date identified on the VCL, it initiated the closure of her FAP case by sending the Notice of Case Action dated December 5, 2022. The Department representative also testified that there was no request for assistance submitted by Petitioner indicating she would be unable to return the requested verifications by the due date. The Department representative testified that on or around December 20, 2022, after Petitioner's case had already closed, Petitioner contacted the Department to inquire about the case closure and was informed that the case closed because the requested verifications were not received. The Department representative testified that because the requested verifications were not received, a new benefit period could not be certified and Petitioner's FAP case automatically closed. The Department confirmed that the requested verifications were submitted on February 22, 2023, however, it was too late, and Petitioner was required to reapply for FAP benefits.

At the hearing, Petitioner's AHR asserted that Petitioner submitted the requested verifications prior to the due date identified on the VCL but could not specify an exact date of submission or manner in which the documents were returned, whether by mail, dropped off in person to a local office, by fax, or uploaded electronically to Petitioner's MiBridges account. Petitioner's AHR further asserted that in February 2023, and April 2023, Petitioner submitted verification of her new employment to the Department but was told by the Department that the verification would not be accepted. It is noted that Petitioner's AHR did not submit any documentation in support of the testimony and arguments provided. Petitioner's AHR indicated that she could speak with Petitioner after the hearing and obtain additional information regarding exact dates of submission as well as obtain the documents that were requested. However, upon review, based on the evidence presented at the hearing, Petitioner's AHR failed to establish that Petitioner timely submitted the requested verification of donation or contribution by the November 17, 2022, due date identified on the VCL.

Therefore, upon review, the Department properly closed Petitioner's FAP case effective December 1, 2022, on the basis that she failed to timely return the requested verifications in connection with the redetermination. Furthermore, following the closure of the record, it was discovered that Petitioner's hearing request was not timely filed within 90 days of the December 5, 2022, Notice of Case Action. BAM 600, pp. 6-7 provides that a request for hearing must be received in the Department local office within 90 days of the date of the written notice of case action. On or around April 7, 2023, Petitioner submitted a hearing request to dispute the case closure effective December 1, 2022, and the information contained in the December 5, 2022 Notice of Case Action. Thus, Petitioner's hearing request should also be dismissed as it was untimely filed.

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.

ZB/ml



Zainab A. Baydoun
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

Tara Roland 82-17

Wayne-Greenfield/Joy-DHHS

8655 Greenfield

Detroit, MI 48228

MDHHS-Wayne-17-hearings@michigan.gov

Interested Parties

BSC4

M Holden

D Sweeney

MOAHR

Via First Class Mail:

Authorized Hearing Rep.

[REDACTED]
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Petitioner

[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]