



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: June 9, 2023  
MOAHR Docket No.: 23-002145  
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 May 17, 2023 via teleconference. Petitioner appeared and represented himself. Candace Benms, Hearing Facilitator, appeared on behalf of 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 February 1, 2023, MDHHS sent Petitioner a Mid-Certification Contact Notice (Exhibit A, p. 6). The notice indicated that Petitioner was required to answer the questions on the enclosed form and return it to MDHHS by February 21, 2023 (Exhibit A, p. 6).
3. On March 10, 2023, MDHHS sent Petitioner a Notice of Food Assistance (FAP) Closure, which stated that Petitioner's FAP case would close effective March 31, 2023 for failure to complete and return the Mid-Certification Contact Notice (Exhibit A, p. 11).
4. On April 12, 2023, Petitioner submitted a new application for FAP (Exhibit A, p. 2).

5. On April 14, 2023, Petitioner filed a Request for Hearing to dispute the termination of his FAP benefits (Exhibit A, p. 3).
6. On April 14, 2023, MDHHS sent Petitioner a Notice of Case Action indicating that he was approved for FAP, beginning April 12, 2023 (Exhibit A, p. 26).

### **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, effective March 31, 2023, for failing to return the Mid-Certification Contact Notice in a timely manner. Subsequently, Petitioner reapplied for FAP and was approved, effective April 12, 2023 ongoing. Therefore, this Decision will address the gap in coverage from March 31, 2023 to April 12, 2023 only.

MDHHS is required to periodically redetermine or renew an individual's eligibility for active programs. BAM 210 (October 2022), p. 1. FAP groups assigned a 24-month benefit period are required to complete a Mid-Certification Contact Notice. *Id.*, p. 11. The redetermination/renewal process includes a thorough review of all eligibility factors. *Id.* For most programs, a complete redetermination or renewal is required at least every 12 months. *Id.*, p. 3. For FAP, benefits stop at the end of the benefit period unless a redetermination is completed and a new benefit period is certified. *Id.* If the client does not begin the redetermination process, MDHHS allows the benefit period to expire. *Id.* Late redeterminations are processed according to subsequent process rules. *Id.*, pp. 22-23. Local offices must assist clients who need and request help to complete applications, forms and obtain verifications. *See generally*, BAM 130 (January 2022).

Here, MDHHS testified that it did not receive Petitioner's Mid-Certification Contact Notice until March 31, 2023, which was past the February 21, 2023 deadline (Exhibit A, p. 1). Petitioner disputed this and credibly testified that he submitted the form to a local MDHHS office in-person on February 20, 2023. Petitioner stated that the form was delayed in the mail because he had recently moved, and the area was experiencing an electrical power outage at that time. Despite the delay, Petitioner insisted that he dropped the form off to the local MDHHS office on February 20, 2023, which was one

day before the deadline. Based on Petitioner's testimony, the record reflects that Petitioner returned the form to MDHHS timely.

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 closed Petitioner's FAP case.

### **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 March 31, 2023.
2. Redetermine Petitioner's eligibility for FAP benefits from March 31, 2023 to April 12, 2023;
3. Issue Petitioner supplemental FAP benefits for any benefits that he was eligible to receive, but did not, from March 31, 2023 through April 12, 2023; and
4. Notify Petitioner of its decision in writing.



LJ/tm

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**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 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**  
Tracy Felder  
Wayne-Southwest-DHHS  
2524 Clark Street  
Detroit, MI 48209  
**MDHHS-Wayne-41-**  
**Hearings@michigan.gov**

**Interested Parties**

M. Holden  
D. Sweeney  
BSC4

**Via-First Class Mail :**

**Petitioner**

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