



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 25, 2023
MOAHR Docket No.: 23-002263
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 18, 2023 via teleconference. Petitioner appeared and represented herself. Robert Sobie, Eligibility Specialist, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department).

ISSUE

Did MDHHS 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.
2. On January 28, 2023, MDHHS sent Petitioner a Notice of Case Action indicating that her FAP benefits would be closed, effective March 1, 2023 ongoing due to the receipt of lottery/gambling winnings of \$4,250.00 or more (Exhibit A, pp. 6-7).
3. On April 19, 2023, Petitioner filed a Request for Hearing to dispute the closure of her FAP case (Exhibit A, 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. 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 closed Petitioner's FAP case because it received information that she received lottery winnings of \$4,250 or more. Petitioner disputed this action and testified that the issue concerns a winning lottery ticket from 2021 that she returned for her daughter. She gave the funds to her daughter and the funds were never transferred into her account. Petitioner's testimony was credible and unrebutted.

Pursuant to policy, all FAP groups must report when they receive substantial lottery or gambling winnings by the tenth of the following month after the group receives the winnings. BEM 403 (October 2022), p. 1. Substantial lottery or gambling winnings means \$4,250.00 for a single payment. *Id.* When MDHHS learns of a FAP group receiving a single lottery or gambling winning of \$4,250 or more, it is required to close the case, giving timely notice for the negative action. *Id.* All FAP groups closed for receiving substantial lottery or gambling winnings remain ineligible until they meet allowable income and asset tests. *Id.*

Here, MDHHS closed Petitioner's case because it received information that she returned a lottery ticket valued at \$4,250.00 or more. However, the lottery ticket in question was from 2021. It is unclear when exactly Petitioner returned the lottery ticket or why there was such a long delay before MDHHS acted upon this information. It is also unclear from the record whether Petitioner was a recipient of FAP benefits at the time that she returned the lottery ticket. Although BEM 403 instructs MDHHS to close a FAP recipient's case in the event of substantial lottery winnings, given the date of the winnings and the substantial delay, MDHHS should have attempted to verify this information with Petitioner prior to closing her case. Policy requires that MDHHS give clients a reasonable opportunity to resolve discrepancies between the information that they have provided and information obtained from a third-party source. BAM 130 (January 2023), p. 9. No evidence was presented that MDHHS allowed Petitioner an opportunity to resolve the discrepancy in this 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 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, effective March 1, 2023 ongoing;
2. Redetermine Petitioner's eligibility for FAP benefits from March 1, 2023 ongoing;
3. Issue supplements to Petitioner for any FAP benefits that she was eligible to receive, but did not, from March 1, 2023 ongoing; and
4. Notify Petitioner of its decision in writing.



Linda Jordan
Administrative Law Judge

LJ/tm

