



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

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Date Mailed: July 6, 2023  
MOAHR Docket No.: 23-002442  
Agency No.: ██████████  
Petitioner: ██████████

**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 June 26, 2023 via teleconference. Petitioner appeared and represented herself. Sheronda Cousins, Eligibility Specialist, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department).

**ISSUE**

Did MDHHS properly deny Petitioner's request for Food Assistance Program (FAP) replacement 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 March 15, 2023, Petitioner submitted a request to MDHHS for replacement FAP benefits. To support her request, Petitioner submitted a letter from DTE Energy stating that she experienced a storm-related electrical power outage from February 23, 2023 to May 5, 2023 (Exhibit A, p. 5).
3. On March 30, 2023, MDHHS sent Petitioner a notice denying her request for FAP replacement benefits because the request was made untimely (Exhibit A, p. 1).
4. On April 26, 2023, Petitioner filed a Request for Hearing to dispute the denial of her application for FAP replacement benefits (Exhibit A, pp. 2-3).

## 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 denied Petitioner's request for FAP replacement benefits because the request was untimely.

Pursuant to state policy and federal regulations, MDHHS must issue replacement FAP benefits when the client reports that food purchased with FAP has been destroyed in a domestic misfortune or disaster. 7 CFR 274.6(a)(1); BAM 502 (January 2022), p. 1. Domestic misfortunes or disasters include events beyond the client's control, including fires, floods, and electrical outages. BAM 502, p. 1. Recipients must report the loss within ten days. *Id.* However, if day ten falls on a weekend or holiday and it is reported on the next workday, it is still considered timely. *Id.* Federal regulations provide that the report is considered timely if it is made to the state agency within ten days of the date that the food purchased with FAP benefits is destroyed in a disaster or misfortune, and that the report may be made orally or in writing. 7 CFR 274.6(a)(3).

MDHHS is required to verify the circumstances through a collateral contact, a community agency, utility company or home visit. BAM 502, p. 1. Generally, the replacement issuance is provided in the amount of the loss to the household, up to a maximum of one month's allotment, unless the issuance includes restored benefits which shall be replaced to their full value. *Id.* MDHHS is required to discuss the amount of lost food purchased with FAP, and to replace the amount that the client states was lost, up to the value of the current month's allotment. *Id.*, p. 2.

At the hearing, MDHHS testified that Petitioner's request was untimely because it was not received within ten days of the first day of the disaster. Although this reasoning is incorrect considering the federal regulations, Petitioner's request for FAP benefits was still untimely. Petitioner testified that she lost power on February 23, 2023 and that her food spoiled as a result of the power outage four days later, or on February 27, 2023. Petitioner had ten days from the date that the food was destroyed to submit a timely request for replacement FAP benefits. In this case, the request needed to be made by March 9, 2023. However, MDHHS received Petitioner's request on March 15, 2023, which was after the deadline. No evidence was presented that Petitioner reported the outage prior to that time.

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 acted in accordance with Department policy when it denied Petitioner's request for FAP replacement benefits.

**DECISION AND ORDER**

Accordingly, MDHHS' decision is **AFFIRMED**.



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**  
Richard Latimore  
Wayne-Conner-DHHS  
4733 Conner  
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**MDHHS-Wayne-57-  
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**Interested Parties**

M. Holden  
D. Sweeney  
BSC4

**Via-First Class Mail :**

**Petitioner**

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