



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: June 13, 2023
MOAHR Docket No.: 23-002443
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 June 7, 2023, from Lansing, Michigan. The Petitioner was represented by ██████████ mother, and Authorized Hearing Representative (AHR). The Department of Health and Human Services (Department) was represented by Jennifer Bellini, Assistance Payment (AP) Worker, and Cathy Burr, AP Supervisor.

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-31.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefit 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 receiving ongoing FAP benefits.
2. On January 3, 2023, a MDHHS-1046 Semi-Annual Contact Report was sent to Petitioner to complete for a 6-month review. The due date to return the form and all required proofs was January 23, 2023. The form could be submitted online, mailed, or turned in at the local Department office. (Exhibit A, pp. 15-19)
3. On January 12, 2023, medical documentation, medical bill or receipt, fax cover sheets, release of information, and health insurance card were submitted to Petitioner's electronic case file. (Exhibit A, p. 29)

4. On February 1, 2023, self-employment documentation was submitted to Petitioner's electronic case file. (Exhibit A, p. 29)
5. On February 2, 2023, a Quick Note was issued to Petitioner stating that the Department received the December self-employment verification but only one week of January was submitted. Another form for January was sent to be completed. (Exhibit A, p. 28)
6. On February 10, 2023, self-employment documentation was submitted to Petitioner's electronic case file. (Exhibit A, p. 29)
7. On February 13, 2023, a Notice of Case Action was issued increasing FAP benefits for Petitioner effective February 1, 2023. (Exhibit A, pp. 20-27)
8. April 28, 2023, to May 3, 2023, emails between Petitioner's mother and the Department show that Petitioner's mother asserted she had emailed the Semi-Annual Contact Report to the APW directly and would provide proof that it was submitted. The Department requested a copy of the email used to submit the form. Petitioner's mother was unable to locate the email. (Exhibit A, pp. 9-13)
9. Petitioner's FAP case was closed effective April 1, 2023, because Petitioner could not be certified for ongoing benefits. (Exhibit A, p. 14)
10. On April 28, 2023, Petitioner filed a hearing request contesting the FAP closure. A copy of a completed Semi-Annual Contact Report was included. (Exhibit A, pp. 3-6)

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.

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of necessary forms. Bridges Administrative Manual (BAM) 105 (April 1, 2022), p. 9.

The Department must periodically re-determine or renew an individual's eligibility for active programs. The redetermination/renewal process includes thorough review of all eligibility factors. Redetermination, renewal, semi-annual and mid-certification forms are often used to re-determine eligibility of active programs. BAM 210 (October 1, 2022), p. 1.

Bridges sends a MDHHS-2240-A, Mid-Certification Contact Notice, for groups assigned a 24-month benefit period during the 11th month of their benefit period and a MDHHS-1046, Semi-Annual Contact Report, the beginning of the fifth month for cases assigned a 12-month benefit period. BAM 210 (October 1, 2022), p. 11.

In order to receive uninterrupted benefits (benefits available on his/her scheduled issuance date), the client must file the redetermination through MI Bridges or file either a MDHHS-1010, Redetermination and MDHHS-1010-FAP, MDHHS-1171, Assistance Application and MDHHS-1171-FAP supplement, or a signed MDHHS-1010-FAP, FAP 1010 supplemental filing form, by the fifteenth of the redetermination month. BAM 210 (October 1, 2022), p. 16.

The group loses its right to uninterrupted FAP benefits if it fails to do any of the following: file the FAP redetermination by the timely filing date; participate in the scheduled interview; submit verifications timely, provided the requested submittal date is after the timely filing date. BAM 210 (October 1, 2022), p. 21.

For FAP, benefits stop at the end of the benefit period unless a redetermination is completed, and a new benefit period is certified. If the client does not begin the redetermination process, benefit period is allowed to expire. BAM 210 (October 1, 2022), p. 3.

If the redetermination packet is not logged in by the last working day of the redetermination month, Bridges automatically closes the EDG. A DHS-1605 is not generated. BAM 220 (October 1, 2022), p. 13.

However, regarding the Semi-Annual Contact Report, BAM 201 policy states:

Failure to Record Receipt of the Semi-Annual Contact Report

If the MDHHS-1046 is not logged in Bridges by the 10th day of the sixth month, Bridges will generate a MDDHS-1046-A, Notice of Food Assistance (FAP) Closure, to the client. This reminder notice explains that the client must return the MDHHS-1046 and all required verifications by the last day of the month, or the case will close.

If the client fails to return a complete MDHHS-1046 by the last day of the sixth month. Bridges will automatically close the case. If the client reapplies, treat it as a new application and Bridges will prorate the benefits.

If the completed MDHHS-1046 and verifications are returned by the last day of the sixth month, process the changes to ensure the client's benefits are available no later than 10 days after their normal issuance date in the seventh month of the benefit period.

BAM 210 (October 1, 2022), p. 14.
(Underline added by ALJ)

In this case, a MDHHS-1046 Semi-Annual Contact Report was sent to Petitioner January 3, 2023, to complete for a 6-month review. The due date to return the form and all required proofs was January 23, 2023. The form could be submitted online, mailed, or turned in at the local Department office. (Exhibit A, pp. 15-19). Petitioner's FAP case was closed effective April 1, 2023, because Petitioner could not be certified for ongoing benefits. (Exhibit A, p. 14).

A review of the electronic case filed does not document that the DHS-1046 Semi-Annual Contact Report was submitted by the due date. Rather, on January 12, 2023, medical documentation, medical bill or receipt, fax cover sheets, release of information, and health insurance card were submitted to Petitioner's electronic case file. (Exhibit A, p. 29). On February 1, 2023, self-employment documentation was submitted to Petitioner's electronic case file. (Exhibit A, p. 29). On February 2, 2023, a Quick Note was issued to Petitioner stating that the Department received the December self-employment verification but only one week of January was submitted. Another form for January was sent to be completed. (Exhibit A, p. 28). On February 10, 2023, self-employment documentation was submitted to Petitioner's electronic case file. (Exhibit A, p. 29). On February 13, 2023, a Notice of Case Action was issued increasing FAP benefits for Petitioner effective February 1, 2023. (Exhibit A, pp. 20-27).

April 28, 2023, to May 3, 2023, emails between Petitioner's mother and the Department show that Petitioner's mother asserted she had emailed the Semi-Annual Contact Report to the APW directly and would provide proof that it was submitted. The Department requested a copy of the email used to submit the form. Petitioner's mother was unable to locate the email. (Exhibit A, pp. 9-13).

However, the above cited BEM 210 policy is clear that If the MDHHS-1046 is not logged in Bridges by the 10th day of the sixth month, Bridges will generate a MDDHS-1046-A, Notice of Food Assistance (FAP) Closure, to the client. This reminder notice explains that the client must return the MDHHS-1046 and all required verifications by the last day of the month, or the case will close. In this case, there is no evidence that the MDDHS-1046-A, Notice of Food Assistance (FAP) Closure was issued to Petitioner.

Ultimately, the Department's determination to close Petitioner's FAP case cannot be upheld. The Department did not receive the MDHHS-1046 Semi-Annual Contact Report by the January 23, 2023, due date. However, BAM 210 policy specifically required the Department to issue a MDDHS-1046-A, Notice of Food Assistance (FAP) Closure. There was no evidence that a MDDHS-1046-A, Notice of Food Assistance (FAP)

Closure was issued to Petitioner. Therefore, the closure of Petitioner's FAP case effective was not in accordance with Department policy.

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 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, the Department's decision is **REVERSED**.

THE DEPARTMENT 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. Redetermine Petitioner's eligibility for FAP as of the April 1, 2023, effective date in accordance with Department policy.

CL/nr



Colleen Lack
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
Trista Waishkey
Washtenaw County DHHS
22 Center Street
Ypsilanti, MI 48198
**MDHHS-Washtenaw-
Hearings@michigan.gov**

Interested Parties
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