



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 22, 2023  
MOAHR Docket No.: 23-002972  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Ellen McLemore**

### **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 21, 2023, via conference line. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was not present.

### **ISSUE**

Did the Department fail to process Petitioner's request for Food Assistance Program (FAP) benefit replacement?

### **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 FAP recipient.
2. On March 6, 2023, Petitioner reported that she had experienced a power outage and that she suffered a loss of food.
3. On April 17, 2023, Petitioner submitted a letter from DTE Energy indicating there was a power outage at her residence and a DHS-601 form.
4. A request for FAP benefit replacement was never processed by the Department.
5. The Department did not issue a written decision to Petitioner regarding FAP benefit Replacement.

6. On May 19, 2023, Petitioner submitted a request for hearing.

### **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 had notified her worker of a loss of food due to the power outage on March 6, 2023. Petitioner stated that she was advised she would need to obtain a letter from DTE Energy verifying the power outage, as well as a letter from her landlord, and submit a DHS-601 form (Exhibit A, p. 8). Petitioner submitted a letter from DTE Energy on April 17, 2023, along with a DHS-601 form, indicating there was a power outage at her residence. Petitioner testified that her power outage began on February 23, 2023, and continued until February 28, 2023, or March 1, 2023. Petitioner stated that the delay in the submission of the DHS-601 form was due to her attempts to obtain a letter from her landlord. The Department did not process Petitioner's request for FAP benefit replacement, as the DHS-601 was not returned within 10 days of the power outage.

Department policies states that FAP recipients may be issued a replacement of food that has been destroyed in a domestic misfortune or disaster and reported timely. BAM 502 (July 2017), p. 1. Domestic misfortunes or disasters include events which occur through no fault of the client, such as fires, floods or electrical out-ages. BAM 502, p. 1. The Department will verify the circumstances through collateral contact, a community agency, utility company or a home visit, and will not it on the DHS-60, Food Replacement Affidavit. BAM 502, p. 1. Replacements and reauthorizations are processed only if the client reports the loss timely. BAM 502, p. 1. Timely means within 10 days if the loss is due to misfortune or disaster. BAM 502, p. 1. A client must attest the amount of food loss on a DHS-601. BAM 502, p. 2. The Department must process the request within ten days of the request or within two working days of the receipt of the signed DHS-601, whichever is later. BAM 601, p. 2.

Policy does not require that a client submit the DHS-601 form within 10 days of the disaster. Policy only requires that the loss be reported to the Department within 10 days of the loss. Petitioner timely reported the loss of food. Additionally, policy does not require verification through a statement from the landlord. Therefore, the Department

failed to properly follow policy when it did not process Petitioner's request for FAP benefit replacement.

**DECISION AND ORDER**

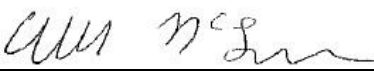
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it failed to process Petitioner's request for Food Benefit Replacement.

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. Reregister and reprocess Petitioner's March 6, 2023 request for FAP replacement.
2. If Petitioner is eligible for FAP replacement, issue supplements to Petitioner that she was eligible for but did not receive for the power outage beginning February 23, 2023, and ending on or around March 1, 2023.
3. Notify Petitioner of its decision in writing.

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**Ellen McLemore**  
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**  
Denise Key-McCoggle  
Wayne-Greydale-DHHS  
27260 Plymouth Rd  
Redford, MI 48239  
**MDHHS-Wayne-15-Greydale-  
Hearings@michigan.gov**

**Interested Parties:**

M. Holden  
D. Sweeney  
BSC4

**Via-First Class Mail :**

**Petitioner**

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