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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 11, 2023
MOAHR Docket No.: 23-003132
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 July 6, 2023, from Lansing, Michigan. ██████████ the Petitioner, appeared on her own behalf. The Department of Health and Human Services (Department) was represented by Susan Derseweh, Hearing Facilitator.

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-38.

ISSUE

Did the Department properly deny Petitioner's application for 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. On ██████████ 2023, Petitioner applied for FAP and reported receiving food assistance from another state, North Carolina, in the last 30 days. (Exhibit A, pp. 4-13)
2. On April 3, 2023, an interview was completed with Petitioner, who reported receiving benefits from North Carolina. (Exhibit A, pp. 14-20)
3. On April 3, 2023, an out of state inquiry was received from North Carolina showing Petitioner had active FAP benefits in that state. (Exhibit A, pp. 21-22)
4. On April 3, 2023, a verification checklist was issued requesting verification of income by an April 13, 2023 due date. (Exhibit A, pp. 23-25)

5. On April 13, 2023, a verification checklist was issued requesting verification of income by an April 24, 2023 due date. (Exhibit A, pp. 26-28)
6. Petitioner submitted paycheck verifications on March 26, 2023, April 3, 2023, and April 16, 2023. (Exhibit A, pp. 37-38)
7. On April 25, 2023 a Notice of Case Action was issued to Petitioner denying the FAP application because verification was not returned and because Petitioner was active for FAP in another state. (Exhibit A, pp. 29-32 and 35; Hearing Facilitator Testimony)
8. On June 2, 2023, Petitioner requested a hearing contesting the denial of her FAP application. (Exhibit A, p. 33)

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 general, verification is to be obtained when information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. The Department must tell the client what verification is required, how to obtain it, and the due date. The client must obtain required verification, but the Department must assist if the client needs and requests help. If neither the client nor the Department can obtain verification despite a reasonable effort, the Department should use the best available information. If no evidence is available, the Department is to use their best judgment. BAM 130, January 1, 2023, pp. 1-4.

For FAP, the Department must allow the client 10 calendar days (or other time limit specified in policy) to provide the verification requested. The Department is to send a case action notice when the client indicates refusal to provide a verification, or the time-period given has elapsed and the client has not made a reasonable effort to provide it. Further, if the client contacts the department prior to the due date requesting an extension or assistance in obtaining verifications, the Department is to assist the client with the verifications but not grant an extension. The Department is to explain to the client they will not be given an extension and their case will be denied once the VCL

due date is passed. Also, their eligibility will be determined based on their compliance date if they return required verifications. The Department is to reregister the application if the client complies within 60 days of the application date. BAM 130, pp. 7-8.

Overall, the evidence does not support the denial of Petitioner's FAP application based on the failure to provide verifications. On April 3, 2023, a verification checklist was issued requesting verification of income by an April 13, 2023 due date. (Exhibit A, pp. 23-25). On April 13, 2023, a verification checklist was issued requesting verification of income by an April 24, 2023 due date. (Exhibit A, pp. 26-28). Petitioner submitted paycheck verifications on March 26, 2023, April 3, 2023, and April 16, 2023. (Exhibit A, pp. 37-38). The Department indicated that there were specific pay dates they were looking for. (Exhibit A, p. 35; Hearing Facilitator Testimony). However, the verification checklists did not specify what pay dates the Department was looking for. (Exhibit A, pp. 23-28) Further, Petitioner was making reasonable efforts to comply with the verification request as she provided paycheck verifications on March 26, 2023, April 3, 2023, and April 16, 2023. (Exhibit A, pp. 37-38).

However, the denial must be upheld based on Petitioner receiving food assistance benefits from another state at the time of the determination. A person cannot receive FAP in more than one state for any month. BEM 222, October 1, 2018, p. 3. Petitioner reported receiving food assistance program benefits from North Carolina on her assistance application and during the interview. (Exhibit A, pp. 4-20). On April 3, 2023, an out of state inquiry was received from North Carolina showing Petitioner had active FAP benefits in that state. (Exhibit A, pp. 21-22). Accordingly, Petitioner was not eligible to receive FAP benefits from Michigan at the time of the determination because she had an active food assistance benefit case in another state that same month.

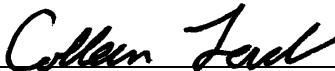
Petitioner explained that she thought the benefits from North Carolina would transfer to Michigan. Petitioner also wanted to be sure the Michigan benefits would start before she closed the case in North Carolina. (Petitioner Testimony). While it is understandable that Petitioner wanted to ensure benefits would start in Michigan before closing the case in North Carolina, policy does not allow for the benefits to start in Michigan while there is still an active benefit case in another state.

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 acted in accordance with Department policy when it denied Petitioner's application for FAP based on Petitioner having an active food benefit case in another state at that time.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

CL/ml



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
Susan Derseweh
Genesee County DHHS Clio Rd Dist.
4809 Clio Road
Flint, MI 48504
MDHHS-Genesee-Clio-Hearings@michigan.gov

Interested Parties

BSC2
M Holden
D Sweeney
MOAHR

Via First Class Mail:

Petitioner

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