



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: August 15, 2023
MOAHR Docket No.: 23-004100
Agency No.: ██████████
Petitioner: ██████████

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 August 14, 2023, via conference line. Petitioner was present and was unrepresented. The Department of Health and Human Services (Department) was represented by Oscar Brummitt.

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 an ongoing FAP recipient.
2. On June 23, 2023, Petitioner submitted an application for State Emergency Relief (SER) benefits (Exhibit A, pp. 7-12).
3. On July 24, 2023, Petitioner submitted another SER application (Exhibit A, pp. 26-32).
4. Effective August 1, 2023, Petitioner's FAP benefit case closed.
5. On July 13, 2023, Petitioner submitted a request for hearing related to her FAP and SER benefit cases.

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).

FAP

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.

At the hearing, the Department testified that numerous Verification Checklists (VCL) went out requesting verification of Petitioner's income. The Department stated that the VCLs were sent to Petitioner as a result of the SER application. The Department stated that despite Petitioner submitting verification of her income for June 2023, her FAP benefit case was closed effective August 1, 2023. The Department testified that Petitioner failed to return a redetermination.

The Department must periodically redetermine or renew an individual's eligibility for active programs. BAM 210 (April 2017), p. 1. Redetermination, renewal, semi-annual and mid-certification forms are often used to redetermine eligibility of active programs. BAM 210, p. 1. A complete redetermination/renewal is required at least every 12 months. BAM 210, p. 1. For FAP cases, benefits stop at the end of the benefit period unless a redetermination is completed and a new benefit period is certified. BAM 210, p. 1. If a client does not begin the redetermination process, the benefit period will be allowed to expire. BAM 210, p. 1.

Upon review of the evidence, the Department presented the VCLs sent to Petitioner but did not provide any proofs regarding her redetermination. The Department did not present the redetermination or Petitioner's Electronic Case File (ECF) showing she failed to return the redetermination. Therefore, the Department failed to present sufficient evidence that it properly closed Petitioner's FAP benefit case.

SER

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Department of Human Services) pursuant to MCL 400.10 and Mich Admin Code, R 400.7001-.7049.

In this case, Petitioner submitted two SER applications. Petitioner conceded that one of the applications was approved. The hearing was requested, in part, to dispute the Department's action taken with respect to Petitioner's SER program benefits. Shortly after commencement of the hearing, Petitioner testified that she did not wish to proceed with the hearing related to the SER program. The Request for Hearing was withdrawn.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Petitioner's FAP benefit case.

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

Pursuant to the withdrawal of the hearing request filed in this matter, the Request for Hearing related to the SER program is **DISMISSED**.

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 FAP eligibility as of August 1, 2023, ongoing;
2. If Petitioner is eligible for FAP benefits, issue supplements she is entitled to receive; and
3. Notify Petitioner of its decision in writing.

EM/tm



Ellen McLemore
Administrative Law Judge

