



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
SUZANNE SONNEBORN
EXECUTIVE DIRECTOR

MARLON I. BROWN, DPA
ACTING DIRECTOR

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████████████████████, MI ██████████

Date Mailed: October 12, 2023
MOAHR Docket No.: 23-005289
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 October 9, 2023, via conference line. Petitioner was represented by her son, and adult group member, ██████████. The Department of Health and Human Services (Department) was not present.

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. The Department closed Petitioner's FAP benefit case and subjected her to a sanction.
3. On August 29, 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, the Department closed Petitioner's FAP benefit case. The Department was not present at the hearing. However, the Department submitted a Hearing Summary on September 7, 2023, to the Michigan Office of Administrative Hearings and Rules. Per the hearing summary, Petitioner's FAP benefit case was closed for her failure to submit verification of her husband's employment income, as a result of a quality control (QC) audit. Petitioner was also subjected to a sanction.

Clients must cooperate with local and central office staff during QC reviews. BAM 105 (April 2023), p. 9. When a lack of QC review cooperation is apparent, the Department notifies the client of the consequences and sends a copy of the letter to the specialist. BAM 105, p. 9. If contacted by the client regarding the audit request, advise the client to cooperate with the reviewer. BAM 105, p. 9. Clients who are able but refuse to provide necessary information or take a required action are subject to penalties. BAM 105, p. 10. For FAP cases, the Department will close the program when notified by a QC reviewer that the group failed to cooperate with a QC review. BAM 105, p. 10. The reviewer recommends closure on a DHS-1599, Quality Control Audit Results Summary, and the specialist receives a copy. BAM 105, p. 10. The group is ineligible until after the date shown on the summary attached to the DHS-1599 or until the group cooperates with the reviewer, whichever occurs first. BAM 105, p. 10. The date shown is 115 days from the end of the QC review period in which the program was scheduled for review. BAM 105, p. 10.

The Department did not appear at the hearing and failed to present evidence that Petitioner was noncompliant with the QC audit. At the hearing, Petitioner's son testified that his father's income was verified. Therefore, the Department did not act in accordance with policy when it closed Petitioner's FAP benefit case and subjected her to a sanction.

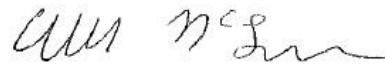
DECISION AND ORDER

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 and subjected her to a sanction.

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. Reinstate Petitioner's FAP benefit case and redetermine eligibility;
2. If Petitioner is eligible for additional FAP benefits, issue supplements in accordance with Department policy;
3. Remove any QC audit penalties/sanctions from the FAP case; and
4. Notify Petitioner of its decision in writing.



Ellen McLemore
Administrative Law Judge

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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
Tracy Felder
Wayne-Southwest-DHHS
2524 Clark Street
Detroit, MI 48209
**MDHHS-Wayne-41-
Hearings@michigan.gov**

Interested Parties
M. Holden
D. Sweeney
BSC4

Via-First Class Mail :

Petitioner
[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]