



STATE OF MICHIGAN

GRETCHEN WHITMER
GOVERNOR

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

MARLON I. BROWN, DPA
ACTING DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: October 12, 2023
MOAHR Docket No.: 23-005752
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm

HEARING DECISION

On August 31, 2023, Petitioner, [REDACTED] requested a hearing to dispute a Food Assistance Program (FAP) closure. Following Petitioner's hearing request, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, 7 CFR 273.15, and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on October 11, 2023. Petitioner appeared and represented herself. Respondent, Department of Health and Human Services (Department), had Matthew Zofchak, Assistance Payments Supervisor, appear as its representative. Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 45-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

ISSUE

Did the Department properly close Petitioner's 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 July 6, 2023, Petitioner completed a form to renew her eligibility for FAP benefits and Medical Assistance (MA). In the form, Petitioner reported that she had income from employment at [REDACTED] and [REDACTED]
2. On August 8, 2023, the Department interviewed Petitioner. The Department documented that Petitioner reported she was employed by [REDACTED] she

works six hours per week, she receives [REDACTED] per hour, and she is paid weekly. The Department also documented that Petitioner reported she was employed by [REDACTED] she works 25-50 hours per week, she receives [REDACTED] per hour, and she is paid weekly.

3. On August 8, 2023, the Department mailed a verification checklist to Petitioner. The verification checklist instructed Petitioner to provide verification of her employment at [REDACTED] and [REDACTED] by August 18, 2023. The verification checklist informed Petitioner that acceptable verification included the last 30 days of check stubs or earnings statements, an employer statement, and a DHS-38 verification of employment form.
4. On August 21, 2023, Petitioner uploaded documents to her MiBridges account in response to the verification checklist. Petitioner uploaded documents, including check stubs from [REDACTED] Petitioner did not upload any documentation pertaining to her employment with [REDACTED]
5. The Department reviewed the documents that Petitioner uploaded, and the Department determined that Petitioner did not provide sufficient verification of her employment with [REDACTED]
6. On August 21, 2023, the Department mailed a notice of case action to Petitioner to notify her that her FAP benefits were closing effective September 1, 2023, because Petitioner did not provide verification of employment.
7. On August 31, 2023, Petitioner requested a hearing to dispute the Department's decision.

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) 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 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 is disputing the Department's decision to close her FAP benefits. The Department closed Petitioner's FAP benefits because Petitioner did not return verification of her employment with [REDACTED] as instructed by the Department.

Verification is usually required by the Department at the time of application/redetermination or for a reported change affecting eligibility or benefit level.

BAM 130 (January 1, 2023), p. 1. The Department must tell a client what verification is required, how to obtain it, and the due date. *Id.* at p. 3. The Department must allow the client 10 calendar days to provide requested verification. *Id.* at p. 7. The client must obtain the verification, but the local office must assist if the client needs it and asks for help. *Id.* Verifications are only considered timely if they are received by the due date. *Id.* The Department must send a Negative Action Notice when the client refuses to provide the verification, or the client has failed to provide the verification by the due date. *Id.*

In this case, the Department requested verification from Petitioner because the Department needed additional information to redetermine Petitioner's eligibility for FAP benefits during Petitioner's FAP renewal. Petitioner reported on her renewal form and during her interview that she was employed by [REDACTED] so the Department requested documentation to verify her employment at [REDACTED]. The Department properly instructed Petitioner what verification was required, how to obtain it, and the due date. The Department also properly allowed Petitioner 10 calendar days to provide the verification. It was Petitioner's responsibility to provide the verification to the Department by the due date. When the Department did not receive the verification by the due date, the Department properly closed Petitioner's FAP benefits because Petitioner failed to provide the verification by the due date.

Petitioner asserted that she could not provide the last 30 days of check stubs or earnings statements from her employment at [REDACTED] because she had not been paid by [REDACTED] since May 2023. Although Petitioner may not have received any pay from [REDACTED] in the last 30 days, Petitioner was still required to provide some sort of verification of her employment. Petitioner could have obtained a written statement from [REDACTED] or Petitioner could have had [REDACTED] complete a DHS-38 verification of employment form. The Department listed these documents as acceptable forms of verification on the verification checklist. Petitioner did not provide any sort of verification, so the Department properly determined that it did not receive verification of Petitioner's employment at [REDACTED].

Petitioner asserted that the Department should have continued to issue FAP benefits to Petitioner after she requested a hearing because the notice of case action stated that the Department must receive her hearing request within 10 days of the date of the notice for her to continue receiving benefits, and Petitioner submitted her hearing request within 10 days. Petitioner is correct that the notice of case action contains a statement regarding the requirement to submit a hearing request within 10 days to continue receiving benefits. However, this is not a guarantee that benefits will continue. When a benefit period has expired, the Department cannot continue to issue FAP benefits after the closure. BAM 600 (March 1, 2021), p. 25-26. In Petitioner's case, Petitioner's benefit period expired, so the Department could not issue FAP benefits to Petitioner after the closure, even though Petitioner submitted a hearing request within 10 days.

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 act in accordance with its policies and the applicable law when it closed Petitioner's Food Assistance Program benefits.

IT IS ORDERED, the Department's decision is **AFFIRMED**.

JK/ml



Jeffrey Kemm
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

Matt Zofchak
Shiawassee County DHHS
1720 East Main Street
Owosso, MI 48867

MDHHS-Shiawassee-Hearings@michigan.gov

Interested Parties

BSC2
M Holden
D Sweeney
MOAHR

Via First Class Mail:

Petitioner

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