



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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Date Mailed: January 5, 2024  
MOAHR Docket No.: 23-008535  
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 January 3, 2024, via conference line. Petitioner was present and was unrepresented. The Department of Health and Human Services (Department) was represented by Katrina Brown, Assistance Payments Worker.

**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. In September 2023, the Department sent Petitioner a redetermination packet to complete for her FAP benefit case (Exhibit A, pp. 24-33).
3. On ██████████ 2023, Petitioner submitted an application for State Emergency Relief (SER) benefits, which the Department used to process Petitioner's FAP benefit case (Exhibit B, pp. 11-16).

4. On October 31, 2023, Petitioner completed an interview related to her FAP benefit case and reported that her daughter had self-employment income (Exhibit B, pp. 17-23).
5. On October 31, 2023, the Department sent Petitioner a Verification Checklist (VCL) requesting verification of her daughter's income (Exhibit B, pp. 24-26).
6. On November 15, 2023, the Department sent Petitioner a Notice of Case Action informing her that her FAP benefit case was closing effective November 1, 2023, ongoing, for her failure to submit the requested verifications (Exhibit B, pp. 27-31).
7. On November 27, 2023, and December 13, 2023, Petitioner submitted requests for hearing disputing the Department's decision to close her FAP benefit case.

### **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 was in the process of completing a redetermination related to her FAP benefit case. Petitioner reported during her interview that her daughter was employed with [REDACTED]. On October 31, 2023, the Department sent Petitioner a VCL requesting verification of her daughter's self-employment income. Proofs were due by November 13, 2023.

Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (January 2021), p. 1. To request verification of information, the Department sends a verification checklist (VCL) which tells the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. For FAP cases, the Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verification that is required. BAM 130, p. 7. Verifications are considered to be timely if received by the date they are due. BAM 130, p. 7. For electronically transmitted verifications (fax, email or Mi Bridges document upload), the date of the transmission is the receipt date. BAM 130, p. 7. Verifications that are submitted after the close of regular business hours through the drop box or by delivery of a Department representative are considered to be received the next business day. BAM 130, p. 7. The Department sends a negative action notice when: the client

indicates a refusal to provide a verification OR the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130, p. 7.

The Department testified that as of November 15, 2023, Petitioner had not submitted verification of her daughter's self-employment income. As a result, Petitioner's FAP benefit case was closed. On November 17, 2023, Petitioner submitted self-employment income and expense statements indicating that her daughter was employed with [REDACTED]. Petitioner testified that there was a misunderstanding with her daughter, in that Petitioner believed her daughter had obtained employment with [REDACTED] but later discovered that she had only applied for employment. Petitioner stated that it took her time to gather her daughter's income information, as her daughter has mental health issues, and it was difficult to ascertain her employment status.

The Department sends a negative action when the client indicates a refusal to provide a verification or the time period given has elapsed and the client has not made a reasonable effort to provide it. Petitioner clearly did not indicate a refusal to provide the verification and made a reasonable effort to comply with the requests for verification. Thus, the Department did not act in accordance with policy when it closed Petitioner's FAP benefit case.

### **DECISION AND ORDER**

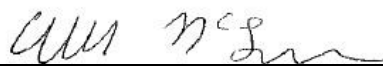
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it closed Petitioner's FAP benefit case.

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. Redetermine Petitioner's FAP eligibility as of November 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.

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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**  
Chelsea McCune  
Macomb County DHHS Warren Dist.  
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**MDHHS-Macomb-20-  
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**Interested Parties**  
M. Holden  
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BSC4

**Via-First Class Mail :**

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