



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

MARLON I. BROWN, DPA
ACTING DIRECTOR

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Date Mailed: February 6, 2024
MOAHR Docket No.: 23-009816
Agency No.: ██████████
Petitioner: █████ █████

ADMINISTRATIVE LAW JUDGE: Caralyce M. Lassner

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 hearing was held by telephone on January 29, 2024. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Danielle Moton, Assistant Payment Worker.

ISSUE

Did the Department properly process Petitioner’s Food Assistance Program (FAP) redetermination application for benefits effective November 1, 2023 ongoing?

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 is an ongoing recipient of FAP benefits.
2. On September █████ 2023, the Department issued a redetermination application to Petitioner. (Exhibit A, pp. 12 – 16).
3. On September █████ 2023, Petitioner completed and returned the redetermination application. (Exhibit A, pp. 12 – 16).
4. On November █████ 2023, the Department issued a Verification Checklist (VCL) to Petitioner. (Exhibit A, p. 6).

5. On December 18, 2023, Petitioner requested a hearing because she did not receive a Notice of Case Action following her redetermination or FAP benefits for November or December 2023. (Exhibit A, pp. 3 – 7).

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.

Petitioner completed and returned her redetermination application to the Department on September [REDACTED] 2023. (Exhibit A, pp. 12 – 16). On December [REDACTED] 2023, Petitioner requested a hearing alleging she had not received her FAP benefits for November or December 2023 nor had she received a notice of case action. (Exhibit A, pp. 3 – 5).

Subsequent to her request for hearing and prior to the hearing date, Petitioner received supplemental FAP benefits from the Department. The Department confirmed that the supplemental benefits were issued on January 4, 2024 and represented benefits issued as follows:

- \$[REDACTED] for November 2023,
- \$[REDACTED] for December 2023, and
- \$[REDACTED] for January 2024.

Therefore, to the extent Petitioner's request for hearing was based on a failure to receive benefits for November and December, that issue is resolved. The only remaining issue is whether or not the Department issued a notice of case action related to Petitioner's benefits for November 1, 2023 ongoing.

Upon certifying a FAP case after processing a redetermination, the Department is required to send the client a Notice of Case Action. BAM 210 (October 2023), p. 19. Further, in preparation for the hearing, the Department is required to send to MOAHR and the client a hearing summary with a hearing packet that includes, at a minimum, the relevant notice of case action and a copy of all documents the Department intends to offer to support its action. BAM 600 (March 2021), p. 10.

In this case, the Department did not provide a notice of case action for benefit period at issue in the hearing packet. A partial page of a notice of case action is included in the

hearing packet, having been provided by Petitioner as part of her request for hearing. The Department testified that the last notice of case action was issued October 5, 2022 and could not confirm that any more recent notice of case action has been generated or issued in Petitioner's case. Because the Department did not establish that it issued a notice of case action to Petitioner upon certification of her eligibility, Petitioner does not have the ability to review and evaluate the Department's determination of the amount of FAP benefits Petitioner may be entitled to from November 1, 2023 ongoing.

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 failed to issue a notice of case action following Petitioner's redetermination.

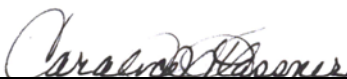
DECISION AND ORDER

Due to its failure to show it issued a Notice of Case Action, the Department's FAP 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. Issue a notice of case action to Petitioner concerning her FAP eligibility for the period effective November 1, 2023 ongoing.

CML/dm



Caralyce M. Lassner
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
Tara Roland 82-17
Wayne-Greenfield/Joy-DHHS
**MDHHS-Wayne-17-
hearings@michigan.gov**

HoldenM

DensonSogbakaN

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MOAHR

Via-First Class Mail :

Petitioner
[REDACTED]
[REDACTED]
[REDACTED]