



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



Date Mailed: February 14, 2024
MOAHR Docket No.: 24-000220
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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 February 8, 2024. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Tiontia Bell, Eligibility Specialist.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) 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 recipient of FAP benefits. (Exhibit A, p. 1).
2. On October 31, 2023, the Department sent Petitioner a redetermination packet for Medicaid (MA) with some information pre-printed in various sections of the packet. (Exhibit A, pp. 7 – 13).
3. On November 13, 2023, Petitioner returned a Verification of Employment (VOE), completed by the employer, to the Department reporting her employment with [REDACTED] (Employer F) had ended.
4. On November 17, 2023, Petitioner returned her redetermination application. (Exhibit A, p. 7).

5. On December 8, 2023, the Department sent Petitioner a Verification Checklist (VCL) for MA and FAP, requesting verification of dependent care expense, proof of employment with [REDACTED] proof of employment with [REDACTED] and proof of comprehensive insurance for Petitioner's minor child. (Exhibit A, pp. 14 – 15).
6. On December 19, 2023, Petitioner returned a VOE, completed by the employer, to the Department regarding her employment with [REDACTED] (Employer Q).
7. On December 28, 2023, the Department issued a Notice of Case Action (NOCA) closing Petitioner's FAP case, effective February 1, 2024, for Petitioner's failure to provide verification of employment. (Exhibit A, pp. 17, 19).
8. On January 5, 2024 and January 17, 2024, Petitioner submitted additional verifications, not at issue in this hearing, to the Department.
9. On January 5, 2024, the Department received Petitioner's request for hearing to dispute the closure of her FAP case. (Exhibit A, pp. 4 – 5).

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 requested a hearing to dispute closure of her FAP case. (Exhibit A, pp. 4 – 5). A NOCA was issued to Petitioner on December 28, 2023, closing her FAP case effective February 1, 2024, for her failure to provide verification of her employment. (Exhibit A, pp. 17, 19).

The Department must periodically review an individuals' eligibility for active programs and may utilize the forms used to conduct such a review to redetermine eligibility of all active programs. BAM 210 (October 2022), p. 1. Petitioner must completely and truthfully answer all questions on [departmental] forms and is responsible for reporting changes to the Department. BAM 105 (July 2023), pp. 9 and 11 – 13. Changes in circumstances may be discovered through a report by Petitioner, computer tape matches, quality assurance reviews, or other means. BAM 220 (July 2023), p. 1. Once

the Department is aware of a change in income that will affect eligibility or benefit level, the Department must complete a new budget. BEM 505 (October 2022), p. 10.

In this case, the Department sent a redetermination packet for MA to Petitioner on October 31, 2023. The redetermination application had several pre-printed sections including household members and employers. (Exhibit A, pp. 8 – 9).

Petitioner completed the redetermination application for MA on Thursday, November 16, 2023 and the completed application was received by the Department on November 17, 2023. (Exhibit A, pp. 7 – 13). Petitioner testified that she did not notice that two employers were pre-printed on her redetermination application but that she had notified the Department, through MiBridges, that she was no longer employed by Employer F on or about November 13, 2023 when she returned a VOE from Employer F to the Department. Petitioner also testified that she returned a VOE for Employer Q, in December 2023, which verified her ongoing employment with that employer.

During the hearing, the Department testified that it received the VOE from Employer F on Monday, November 13, 2023; however, it appears that the Department did not consider its receipt of this VOE before closing Petitioner's FAP case for failure to verify employment. The Department also testified that it received the VOE for Employer Q from Petitioner on December 19, 2023. Despite acknowledging receipt of the VOE from Employer F, the Department testified that, as to Petitioner's FAP case, the only outstanding verification as of the date of the NOCA, was the VOE from Employer F. Before determining eligibility, the Department is to give the client a reasonable opportunity to resolve any discrepancy between his or her statements and information from another source. BAM 130 (October 2023), p. 9.

Given the discrepancies between the Employer F VOE, reporting Petitioner's employment having ended, that the Department received Employer F's VOE from Petitioner on November 13, 2023, and the MA redetermination application Petitioner returned to the Department on November 17, 2023 where Employer F was prepopulated as a continuing employer, the Department should have inquired further.

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 benefits effective February 1, 2024.


DECISION AND ORDER

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 eligibility for FAP benefits based on verified employment, effective February 1, 2024 ongoing;
2. If Petitioner is eligible for any supplemental FAP benefits, issue supplemental payments to Petitioner for any FAP benefits she was eligible to receive but did not, from February 1, 2024 ongoing; and
3. Notify Petitioner of its decision in writing.

CML/ml



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

Yvonne Hill

Oakland County DHHS Madison Heights Dist.

30755 Montpelier Drive

Madison Heights, MI 48071

MDHHS-Oakland-DistrictII-Hearings@michigan.gov

Interested Parties

BSC4

M Holden

B Cabanaw

N Denson-Sogbaka

Via First Class Mail:

Petitioner

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