



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
DIRECTOR



Date Mailed: March 6, 2024
MOAHR Docket No.: 24-000749
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 28, 2024. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Danielle Moton, Assistance Payments Worker.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) case, effective January 1, 2024?

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 with a certified group size of seven (7), which included Petitioner, Houssein Fouani (HF), and five (5) other individuals.
2. On August 28, 2023, Petitioner's FAP case was reviewed for a Food Assistance Management Evaluations (FAME) audit and a Verification Checklist (VCL) was sent to Petitioner. (Exhibit A, pp. 7 – 9, 15, Line 94).
3. The VCL requested Petitioner to submit the last 30 days of check stubs or earning statements, and proof of self-employment, for HF, to the Department by September 7, 2023. (Exhibit A, pp. 7 – 8).

4. On August 30, 2023, Petitioner contacted the Department and reported that all requested documents had been returned to the Department. The Department reviewed Petitioner's file and noted verification of July income information was still needed but the call was disconnected before Petitioner was advised of the missing information. (Exhibit A, p. 15, Line 96).
5. On August 30, 2023, Petitioner wrote correspondence to the Department advising that all requested self-employment verification was provided to the Department the prior month. This correspondence was included in the hearing packet provided by the Department in advance of this hearing. (Exhibit A, p. 23).
6. On November 30, 2023, the Department issued a Notice of Case Action (NOCA) to Petitioner advising that Petitioner's FAP case was closed, effective January 1, 2024, based on Petitioner's failure to return requested verifications. (Exhibit A, pp. 10 – 11).
7. On January 12, 2024, the Department received Petitioner's request for hearing disputing the closure of her FAP case. (Exhibit A, pp. 3 – 4).

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.

The Department is subject to periodic audits and reviews of its performance in administering FAP cases and audits are performed by either internal auditors or external agencies. BAM 320 (October 2020), p. 1. One type of these audits is the Food Assistance Management Evaluations (FAME) audit, which is mandated by the United States Department of Agriculture (USDA) Food and Nutrition Service (FNS). BAM 320, pp. 1, 8. FAME audits are conducted by the Department's Economic Stability Administration (ESA). BAM 320, p. 8. When a FAME audit is being conducted, FAP cases are randomly selected and evaluated for deficiencies and the cause of any deficiency. BAM 320, p. 9. If a deficiency is identified in a FAP case, the Department is advised to take corrective action. BAM 320, p. 9. Corrective action is required of the Department within 15 days of receiving the FAME report, and the Department must also submit a Corrective Action Plan (CAP) to FAME within 60 days of the FAME report. BAM 320, p. 10.

In this case, Petitioner's FAP case was randomly selected for inclusion in a FAME audit. (Exhibit A, p. 15). The Department testified that as a result of the FAME audit, the Department sent a VCL to Petitioner on August 28, 2023, requesting the last 30 days of check stubs or earning statements, and proof of self-employment, for HF, which were due to the Department by September 7, 2023. (Exhibit A, pp. 7 – 8).

Petitioner contacted the Department by telephone on August 30, 2023 to advise that she had returned all requested verifications. (Exhibit A, p. 15, Line 96). After reviewing the case, the Department determined verification for HF's July self-employment income remained outstanding, but the call was disconnected before that information was conveyed to Petitioner. (Exhibit A, p. 15, Line 96). Petitioner also submitted correspondence to the Department dated August 30, 2023, in which Petitioner advised the Department that she previously provided the requested self-employment verification in the prior month. (Exhibit A, p. 23).

The Department testified that, in response to the August 28, 2023 VCL, Petitioner did satisfy the verification of check stubs or earnings statement and HF's loss of employment. However, while it had received HF's self-employment documents for the months of March, April, May, and June 2023, as well as some business receipts from April and May 2023, it did not receive the self-employment verifications for July or August 2023 which was what had been requested in the August 28, 2023 VCL. (Exhibit A, pp. 16 – 20).

The Department issued a NOCA to Petitioner on November 30, 2023, advising that Petitioner's FAP case would close effective January 1, 2024, based on Petitioner's failure to return requested self-employment verifications.

During the hearing, Petitioner did not dispute that no further verifications were provided to the Department prior to the November 30, 2023 NOCA. However, Petitioner testified that she did hand deliver a profit and loss statement regarding HF's self-employment to the Department on or about December 11, 2023. Petitioner also testified that she did not follow up with the Department regarding the profit and loss until on or about January 5, 2024, which was after the effective date of her FAP case closure.

The Department testified that it has no record of receiving any documents, including a profit and loss statement, from Petitioner in December 2023.

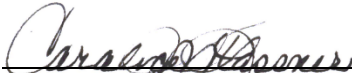
It is Petitioner's responsibility to provide requested verifications to the Department pursuant to policy in a timely fashion. BAM 105 (July 2023), pp. 9 – 14; BAM 130 (January 2023), p 4. Here, the Department credibly testified that it never received adequate documentation of HF's August self-employment income and Petitioner failed to rebut this testimony. Therefore, the Department properly closed Petitioner's FAP case, effective January 1, 2024, due to Petitioner's failure to provide the verifications requested by the Department in the August 28, 2023 VCL.

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 acted in accordance with Department policy when it closed Petitioner's FAP case, effective January 1, 2024.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

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
Tara Roland 82-17
Wayne-Greenfield/Joy-DHHS
8655 Greenfield
Detroit, MI 48228
MDHHS-Wayne-17-hearings@michigan.gov

Interested Parties

BSC4
M Holden
B Cabanaw
N Denson-Sogbaka

Via First Class Mail:

Petitioner

[REDACTED]
[REDACTED] MI [REDACTED]