



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

[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: May 2, 2024
MOAHR Docket No.: 24-003250
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun

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 April 29, 2024, from Detroit, Michigan. Petitioner was represented by [REDACTED] Authorized Hearing Representative (AHR). The Department of Health and Human Services (Department) was represented by Avery Smith, Assistance Payments Supervisor.

ISSUE

Did the Department properly process Petitioner's application for Food Assistance Program (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 or around [REDACTED] 2023, an application for FAP benefits was submitted to the Department on Petitioner's behalf. (Exhibit A, pp. 4-9)
2. The Department received the application but has not processed the application or issued an eligibility determination.
3. On or around March 12, 2024, a hearing was requested on Petitioner's behalf disputing the Department's failure to timely process the FAP application. (Exhibit A, p.3)

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's AHR disputed the Department's failure to timely process the [REDACTED] 2023, FAP application.

When the Department receives an application for assistance, it is to be registered and processed in accordance with Department policies. The date of application is the date the local office receives the required minimum information on an application or the filing form. BAM 110 (October 2023), pp.4-9. For FAP cases, the application must be processed by a local office serving the county or district where the group resides. BAM 110, p. 18. Once an application is registered, the Department must certify eligibility results for each program requested within the applicable standard of promptness (SOP). The SOP begins the date the department receives an application/filing form, with minimum required information. For FAP, the SOP begins when the correct local office receives it. The expedited SOP due date is six calendar days after the application date and 29 calendar days after a regular FAP application is received. BAM 115 (January 2023), pp. 15-17. The Department is to notify clients in writing of positive and negative actions by generating the appropriate notice of case action. A negative action is a Department action to deny an application or to reduce, suspend or terminate a benefit. After processing an initial application, the Department will notify clients of the approval or denial. BAM 115; BAM 220 (October 2023). If approved, FAP benefits must be available by the seventh day for expedited applications and the 30th day for regular FAP applications. BAM 115, p. 17.

At the hearing, the Department confirmed that Petitioner's FAP application was received on [REDACTED] 2023. The Department further confirmed that as of the hearing date, the application had not been fully processed and there has been no eligibility decision issued. While there was some testimony that the application had been transferred to different local offices, there was no valid explanation for the failure to timely process Petitioner's [REDACTED] 2023, FAP application, as more than six months have passed since the application was received by the Department.

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 failed to process Petitioner's FAP application.


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. Register and process Petitioner's [REDACTED] 2023, FAP application;
2. Issue FAP supplements to Petitioner for any benefits he was eligible to receive but did not, if any, from [REDACTED] 2023, ongoing, in accordance with Department policy; and
3. Notify Petitioner and his AHR in writing of its decision.

ZB/ml



Zainab A. Baydoun
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

Yaita Turner

Oakland County Southfield District III

25620 W. 8 Mile Rd

Southfield, MI 48033

MDHHS-Oakland-6303-Hearings@michigan.gov

Interested Parties

BSC4

M Holden

B Cabanaw

N Denson-Sogbaka

MOAHR

Via First Class Mail:

Authorized Hearing Rep.

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

Petitioner

[REDACTED]
[REDACTED]
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