



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]
[REDACTED] MI [REDACTED]

Date Mailed: June 14, 2024
MOAHR Docket No.: 24-005171
Agency No.: [REDACTED]
Petitioner: Kamita Bell

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 June 10, 2024. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Jamila Goods, Eligibility Specialist.

ISSUE

Did the Department properly deny Petitioner's request for replacement 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. Petitioner is an ongoing recipient of FAP benefits and received FAP benefits in the amount of \$973 per month at the time relative to this matter¹.
2. Petitioner rents her residence from a non-related individual.
3. On April 18, 2024, Petitioner's basement flooded at her residence. (Exhibit A, p. 5).
4. On April 20, 2024, a plumber, hired and paid for by Petitioner's landlord, identified the cause of the flood and identified necessary repairs at Petitioner's rental home. (Exhibit A, p. 6).

¹ As of the date of the hearing, Petitioner was engaged in the FAP redetermination process.

5. On April 22, 2024, the Department received a Food Replacement Affidavit (DHS-601) from Petitioner in which Petitioner reported the flood and the loss of frozen and pantry food due to the flood and requested replacement of lost food in the amount of \$973. Petitioner also provided a copy of the work order from her landlord's plumber, which indicated that the basement flooded, and sewer line repairs were necessary. (Exhibit A, pp. 5 – 6).
6. On May 3, 2024, the Department sent Petitioner a Benefit Notice (DHS-176), denying Petitioner's request for food replacement, stating that the cause of the loss is not the equivalent to a natural disaster or domestic misfortune. (Exhibit A, pp. 8 – 11).
7. On May 6, 2024, the Department received Petitioner's request for hearing in which Petitioner disputed the denial of her food replacement request. (Exhibit A, pp. 3 – 4).
8. On May 7, 2024, the Department talked to Petitioner regarding her reported loss. (Exhibit A, p. 7, Line 190).

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 the Department's denial of her request for replacement FAP benefits due to a flood in Petitioner's basement.

FAP recipients may be issued a replacement FAP benefit when food, purchased with FAP benefits, has been destroyed in a domestic misfortune or disaster and is timely reported. BAM 502 (January 2024), p. 1.

For purposes of FAP replacement, domestic misfortunes or disasters include events which occur through no fault of the client, such as fires, floods, or electrical outages. BAM 502, p. 1. The Department is to verify the circumstances of the loss through a collateral contact, a community agency, utility company, or a home visit, and note it on the DHS-601 Food Replacement Affidavit. BAM 502, p. 1. A collateral contact is a direct contact with a person, organization, or agency to verify information from the client

and might be necessary when documentation is not available or when available evidence needs clarification. BAM 130 (May 2024), p. 3.

The client is required to complete the DHS-601 Food Replacement Affidavit describing the loss. BAM 502, p. 2. The Department is to discuss with the client the amount of food originally purchased with FAP benefits that was lost as a result of the disaster or misfortune and replace the amount the client states they have lost up to the value of the current month's allotment. BAM 502, p. 2. Policy provides that, except for households certified as part of Emergency Food Assistance for Victims of Disasters, replacement issuance shall be in the amount of the loss to the household, up to a maximum of one month's allotment, unless the issuance includes restored benefits, which shall be replaced up to their full value. BAM 502, pp. 1 – 2.

Petitioner reported her loss to be in the same amount of her monthly FAP allotment, \$973, and based on her loss of "all of [her] pantry food and food in [her] chest freezer" due to the flood at her residence, which was due to a flood caused by plumbing issues in her home. (Exhibit A, p. 5). Petitioner testified that she rents a home owned and managed by another individual or entity unrelated to Petitioner. No evidence or testimony was offered that the Department requested documents or verification of the flood in addition to the plumbing work order Petitioner provided to the Department on April 22, 2024. (Exhibit A, p. 6).

The Department representative testified that Petitioner's request for food replacement was denied because Petitioner's circumstances did not meet the domestic misfortune criteria as outlined in policy because the flood was caused by a plumbing problem that could have been caused by Petitioner and therefore did not constitute a domestic misfortune that would entitle Petitioner to replacement FAP benefits. Policy expressly defines "domestic misfortune" to include flooding and does not condition that such misfortunes be non-plumbing related or limit misfortunes to natural disasters.

The plumbing work order confirmed that Petitioner's basement flooded, and sewer line repairs were required. (Exhibit A, p. 6). The work order did not state or imply that the flooding was caused by Petitioner's actions or inactions. Additionally, Petitioner testified that her landlord engaged and paid the plumbing company that performed the repairs on or about April 20, 2024, which is consistent with the face of the work order, which lists someone other than Petitioner as the client ordering the work. (Exhibit A, p. 6). The work order noted areas of low spots or sinking (bellies) in the sewer line and that water jetting was necessary due to roots in the outside sewer lines. (Exhibit A, p. 6). Further, Petitioner testified that her landlord did not hold Petitioner responsible for any damage or plumbing repairs that occurred on or about April 18, 2024. Based on the totality of the foregoing, the evidence established that there was flooding in Petitioner's basement and that the flooding was through no fault of Petitioner.

Because policy specifically identifies domestic misfortune incidents as including floods or flooding, and it does not condition that such misfortunes be non-plumbing related or natural disasters, and the evidence established that the flooding occurred through no fault of Petitioner, Petitioner's situation meets the description of domestic misfortune

and the Department failed to establish that it properly denied Petitioner's request for food benefit replacement.

While policy directs the Department to discuss Petitioner's losses with her, it also requires the Department to replace the amount Petitioner states she lost, up to the value of the current month's allotment. BAM 502, p. 2. Petitioner stated that she lost \$973 in food purchased with FAP benefits, which is the monthly FAP allotment she receives. (Exhibit A, p. 5). Because the circumstances of Petitioner's loss were verified and the loss was a domestic misfortune that arose through no fault of Petitioner and resulted in a loss of food not exceeding the monthly FAP allotment, the Department should have issued replacement FAP benefits to Petitioner in the amount of food, purchased with FAP benefits, Petitioner reported as lost.

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 denied Petitioner's request for food benefit replacement.

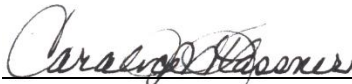
DECISION AND ORDER

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. Reprocess Petitioner's April 2024 request for replacement food benefits;
2. Issue replacement FAP benefits to Petitioner in accordance with Department policy and this Hearing Decision; and
3. Notify Petitioner of its decision in writing.

CML/pt



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
Susan Noel
Wayne-Inkster-DHHS
26355 Michigan Ave
Inkster, MI 48141
MDHHS-Wayne-19-Hearings@michigan.gov

Interested Parties
BSC4
M Holden
B Cabanaw
N Denson-Sogbaka
MOAHR

Via-First Class Mail:

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