



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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██████████, MI ██████████

Date Mailed: June 7, 2022
MOAHR Docket No.: 22-001809
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Linda Jordan

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 on May 31, 2022 via teleconference. Petitioner appeared and represented herself. The Michigan Department of Health and Human Services (MDHHS or Department) failed to appear.

ISSUE

Did MDHHS 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.
2. On February 1, 2022, MDHHS sent Petitioner a Semi-Annual Contact Report, which indicated that Petitioner must return the form by February 22, 2022 (Exhibit A, p. 8).
3. On March 10, 2022, MDHHS sent Petitioner a Notice of Food Assistance (FAP) Closure for failure to return the Semi-Annual Contact Report (Exhibit 1, p. 6). The notice indicated that Petitioner's benefits would close, effective March 31, 2022 (Exhibit A, p. 6).
4. On ██████████ 2022, Petitioner filed a Request for Hearing to dispute the closure of her FAP case (Exhibit 1, pp. 3-5).

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. MDHHS 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 filed a Request for Hearing to dispute the closure of her FAP case. MDHHS did not appear at the hearing. Thus, this decision is based on Petitioner's testimony and the documents prepared and submitted by MDHHS, which were offered into evidence by Petitioner and admitted at the hearing (Exhibit 1, pp. 1-12).

The record shows that Petitioner was an ongoing recipient of FAP benefits and MDHHS sent Petitioner a Semi-Annual Contact Report on February 1, 2022 (Exhibit 1, p. 8). The Semi-Annual Contact Report instructed Petitioner to return the form by February 22, 2022 and advised that if she failed to return the form, her benefits would close (Exhibit 1, p. 8). MDHHS did not receive the form from Petitioner and sent Petitioner a Notice of Food Assistance (FAP) Closure on March 10, 2022, which indicated that her FAP benefits would be closed, effective March 31, 2022 (Exhibit 1, p. 6).

Petitioner credibly testified that she has been having ongoing problems with receiving mail from the United States Postal Service (USPS). She stated that she did not receive the Semi-Annual Contact Report. However, she did receive the Notice of Food Assistance (FAP) Closure and after she received it, she contacted her caseworker by email on March 17, 2022. The email explained that she did not have consistent access to her mail and she requested to complete the paperwork at the local MDHHS office. Petitioner did not receive a response to her email.

MDHHS is required to periodically redetermine or renew an individual's eligibility for active benefit programs, including FAP. BAM 210 (November 2021), p. 1. FAP groups assigned a 12-month benefit period are sent a Semi-Annual Contact Report at the beginning of the fifth month of their benefit period. *Id.*, p. 11. Clients must complete the Semi-Annual Contact Report by the last day of the sixth month of the benefit period in order to continue their benefits. *Id.*, p. 12. The redetermination/review packet is considered complete when MDHHS receives a signed and completed packet from the client. *Id.*, p. 13. If the Semi-Annual Contact Report is not received and logged in by the last working day of the redetermination month, MDHHS will automatically close the case. *Id.*, p. 14.

Based on the record, Petitioner did not return the Semi-Annual Contact Report timely. However, she requested assistance from MDHHS on March 17, 2022, before her benefits were terminated. MDHHS is required to assist clients who need and request help to complete applications, forms and obtain verifications. BAM 210, p. 1. Based on Petitioner's testimony, Petitioner contacted MDHHS to explain the situation and requested assistance, and MDHHS failed to assist her. MDHHS did not appear at the hearing to provide any contradictory testimony.

Therefore, 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 MDHHS did not act in accordance with Department policy when it terminated Petitioner's FAP benefits.

DECISION AND ORDER

Accordingly, MDHHS' decision is **REVERSED**.

MDHHS 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. Reinstate Petitioner's FAP case as of March 31, 2022;
2. Begin recalculating the FAP budget for March 31, 2022 ongoing;
3. If Petitioner is eligible for FAP benefits, issue supplements to Petitioner for any FAP benefits she was eligible to receive but did not from March 31, 2022 ongoing;
4. Notify Petitioner of its decision in writing.

LJ/tm



Linda Jordan
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

Email Recipients:

MDHHS-Wayne-57-Hearings
M. Holden
D. Sweeney
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First-Class Mail Recipient:

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