



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: July 22, 2022
MOAHR Docket No.: 22-002564
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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 July 20, 2022, from Detroit, Michigan. Petitioner was present with her Authorized Hearing Representative (AHR), ██████████. The Department of Health and Human Services (Department) was represented by Cherro West, Family Independence Manager and Raquel Soberal, Pathways to Success Coach.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefit 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 FAP recipient.
2. On March 18, 2022, the Department sent Petitioner a Notice of Case Action informing her that her FAP benefit amount was increasing effective April 1, 2022, due to the addition of a group member (Exhibit A, pp. 12-16).
3. Effective May 1, 2022, Petitioner's FAP benefit case closed.
4. On ██████████ 2022, Petitioner submitted a request for hearing disputing the Department's actions.

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 was an ongoing FAP recipient with a group size of one. Petitioner also had a 24-month benefit period, with an eligibility review date of September 20, 2023. Petitioner notified the Department that she was now the legal guardian of her minor niece. On March 18, 2022, the Department sent Petitioner a Notice of Case Action informing her that her FAP benefit amount was increasing effective April 1, 2022, based on a group size of two. Due to the addition of a group member, Petitioner was no longer eligible for a 24-month benefit period. Petitioner was approved for benefits with a 12-month benefit period, resulting in Petitioner's benefit period ending on April 30, 2022. The Department testified that there is a known error within its electronic processing system in that redetermination packets are not mailed when a certification period is shortened. As a result, a redetermination was not sent to Petitioner for April 2022, and the Department conceded Petitioner's case was closed in error. The Department stated that the Bridges Resource Center would not allow Petitioner's case to be reinstated without a new application. Petitioner refused to complete an application, due to concerns of a lapse in benefits.

The Department must periodically redetermine or renew an individual's eligibility for active programs. BAM 210 (April 2017), p. 1. Redetermination, renewal, semi-annual and mid-certification forms are often used to redetermine eligibility of active programs. BAM 210, p. 1. A complete redetermination/renewal is required at least every 12 months. BAM 210, p. 1. For FAP cases, benefits stop at the end of the benefit period unless a redetermination is completed, and a new benefit period is certified. BAM 210, p. 1. If a client does not begin the redetermination process, the benefit period will be allowed to expire. BAM 210, p. 1.

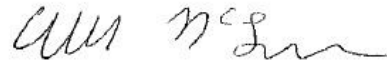
The Department conceded that a redetermination was not sent to Petitioner, and that her FAP benefit case was closed in error. Although the Department made attempts to remedy the situation subsequent to the closure, the Department acknowledged that the initial closure was due to a failure on the Department's behalf. Therefore, the Department did not act in accordance with policy when it closed Petitioner's FAP benefit case.

DECISION AND ORDER

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 benefit case. 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 FAP eligibility as of May 1, 2022;
2. If Petitioner is eligible for FAP benefits, issue supplements she is entitled to receive; and
3. Notify Petitioner of its decision in writing.



Ellen McLemore
Administrative Law Judge

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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
Denise Ezell
DHHS-Wayne Pathways to Potential
3040 W. Grand Blvd STE 5-450
Detroit, MI 48202
DHHS-Wayne-23-Hearings
@michigan.gov

Interested-Parties

M. Holden
D. Sweeney
G. Vail
BSC4
MOAHR

**Via-First-Class-Mail
and Electronic Mail:**

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

Petitioner:

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