



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: October 6, 2022
MOAHR Docket No.: 22-003973
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 October 5, 2022, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Cassandra Williams-McCree, Assistance Payments Worker.

ISSUE

Did the Department properly deny Petitioner's request for Food Assistance Program (FAP) benefit replacement?

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 September 14, 2022, Petitioner submitted a DHS-601, Food Replacement Affidavit.
2. On September 21, 2022, Petitioner submitted a letter from ██████████ indicating she experienced a power outage during the period of August 29, 2022, through September 2, 2022.
3. The Department denied Petitioner's request for food replacement benefits.
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.

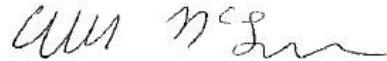
In this case, Petitioner submitted a DHS-601 form requesting food replacement benefits on September 14, 2022. Petitioner submitted a letter from [REDACTED] on September 21, 2022, indicating there was a power outage at her residence from August 29, 2022, through September 2, 2022. The Department testified that Petitioner did not timely submit a form requesting FAP benefit replacement with the letter from DTE Energy. As a result, the request was not processed by the Department.

Department policies states that FAP recipients may be issued a replacement of food that has been destroyed in a domestic misfortune or disaster and reported timely. BAM 502 (July 2017), p. 1. Domestic misfortunes or disasters include events which occur through no fault of the client, such as fires, floods or electrical out-ages. BAM 502, p. 1. Replacements and reauthorizations are processed only if the client reports the loss timely. BAM 502, p. 1. Timely means within 10 days if the loss is due to misfortune or disaster. BAM 502, p. 1.

Policy requires that the loss be reported to the Department within 10 days of the loss. Petitioner did not submit the replacement request until September 14, 2022, for an outage that occurred August 29, 2022, through September 2, 2022, which was beyond the 10-day time limit. Therefore, Petitioner did not timely report the loss. Thus, the Department acted in accordance with policy when it denied Petitioner's food replacement benefits.

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 act in accordance with Department policy when it failed to process Petitioner's request for Food Benefit Replacement. Accordingly, the Department's decision is **AFFIRMED**.



EM/tm

Ellen McLemore
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
Denise McCoggle
Wayne-Greydale-DHHS
27260 Plymouth Rd
Redford, MI 48239
**MDHHS-Wayne-15-Greydale-
Hearings@michigan.gov**

Interested Parties

M. Holden
D. Sweeney
BSC4
MOAHR

Via-First Class Mail :

Petitioner

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