



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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

Date Mailed: October 18, 2022
MOAHR Docket No.: 22-004099
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 via telephone conference line on October 13, 2022. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Amy Pilto, specialist.

ISSUE

The issue is whether MDHHS properly expunged Petitioner's 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 November 7, 2021, Claimant spent \$6.00 in FAP benefits reducing the balance to \$.68.
2. On September 10, 2022, Claimant received a letter from MDHHS stating that unused FAP benefits would be expunged.
3. On September 19, 2022, MDHHS expunged \$.68 in FAP benefits from Petitioner's account.
4. On September 14, 2022, Petitioner requested a hearing to dispute the expungement of FAP benefits.

CONCLUSIONS OF LAW

The 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 the FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011. FAP policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute an expungement of FAP benefits. Exhibit A, pp. 3-5. Petitioner was unsure of the amount of expunged, but testified she received a letter on September 10, 2022 warning her of a pending expungement.¹ Exhibit A, pp. 6-7.

As of September 2022, benefits on FAP or cash accounts that have not been accessed for 365 days will be expunged and not available to the client. BEM 401E (April 2022) p. 13. Beginning October 1, 2022, benefits on a FAP account that have not been accessed for 274 days will be expunged and not available to the client, instead of 365 days. Bridges Policy Bulletin 2022-23.

MDHHS presented documentation indicating that \$.68 in FAP benefits were expunged from Petitioner's account on September 19, 2022.² Exhibit B, p. 1. The most recent transaction before September 2022 occurred on November 7, 2021: 316 days earlier. At the time of expungement, MDHHS policy stated that no expungement may occur until 365 days. Because MDHHS did not wait 365 days since Petitioner's last transaction, the expungement was improper. As such, Petitioner is entitled to \$.68 in a reversal of the expungement.³

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly expunged Petitioner's FAP benefits. It is ordered that MDHHS reissue/reinstate \$.68 in expunged benefits to Petitioner.

¹ Petitioner actually testified that she received a letter stating that benefits were expunged; however, the letter actually stated that FAP benefits would be expunged if not used.

² Petitioner's testimony suggested that some unknown greater amount of FAP benefits were expunged. No such evidence of additional expungement was presented.

³ MDHHS testified that it is in the process of correcting premature expungements occurring on a statewide basis.

The actions taken by MDHHS are **REVERSED**.

CG/mp



Christian Gardocki
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
MDHHS-Wayne-19-Hearings
D. Sweeney
M. Holden
MOAHR
BSC4

Via-First Class Mail :

Petitioner
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