



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR



Date Mailed: November 10, 2022
MOAHR Docket No.: 22-004244
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

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 November 3, 2022. The Petitioner was represented by herself and her husband, [REDACTED]. The Department of Health and Human Services (Department) was not represented, and the hearing proceeded without the Department being present as allowed by Department policy. The Department Exhibit 1, pgs. 1-17 were admitted and made a part of the record.

ISSUE

Did the Department properly determine the Petitioner's eligibility for 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. The Petitioner was a recipient of FAP benefits for a household group composition of 4 for a FAP group with a Redetermination due.
2. On September 8, 2022, the Department Caseworker sent the Petitioner an Employment Verification Form, DHS 38, to verify the employment of her son, [REDACTED] that was due on September 19, 2022, because of the discrepancy with the hours reported and the check stub submitted based on the case notes.

3. On September 22, 2022, the Department Caseworker sent the Petitioner a Notice of Case Action, DHS 1605, that her FAP case was closed effective November 1, 2022, due to failure to provide requested verification.
4. On September 26, 2022, the Department received a hearing request from the Petitioner, contesting the Department's negative action.

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, the Department failed to appear for the scheduled hearing. The Petitioner and her husband appeared, and the hearing proceeded based on the Department's submitted hearing packet.

The Petitioner was a recipient of FAP benefits for a household group composition of 4 for a FAP group with a Redetermination due. On September 8, 2022, the Department Caseworker sent the Petitioner an Employment Verification Form, DHS 38, to verify the employment of her son, [REDACTED] that was due on September 19, 2022, because of the discrepancy with the hours reported and the check stub submitted based on the case notes. On September 22, 2022, the Department Caseworker sent the Petitioner a Notice of Case Action, DHS 1605, that her FAP case was closed effective November 1, 2022, due to failure to provide requested verification. On September 26, 2022, the Department received a hearing request from the Petitioner, contesting the Department's negative action.

During the hearing, the Petitioner stated that her son and his girlfriend lived in their household. Her son was employed, and they sent in his check stubs to the Department. His girlfriend only worked for one day. The Petitioner stated that they submitted the Employment Verification to her son's job when they received it. His job failed to complete the Employment Verification by the due date. She called on September 24, 2022, to ask the Department Caseworker for assistance in getting the required information.

A copy of the son's check stub was not included in the hearing packet. The Petitioner stated that she submitted several check stubs from her son's employment. If a month or more of check stubs were submitted by the Petitioner, then the Department should have been able to determine FAP eligibility based on the submitted check stubs and the Petitioner's case should not have been closed. In addition, the Department is required to assist the Petitioner to get required verifications when assistance is requested.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed the Petitioner's FAP case due to failure to provide required verification.

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, of initiating a redetermination of the Petitioner's eligibility for FAP retroactive to her FAP closure of November 1, 2022.

Based on policy, the Department should provide the Petitioner with written notification of the Department's revised eligibility determination and issue the Petitioner any retroactive benefits she may be eligible to receive, if any.

CF/cc



Carmen G. Fahie

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 :

Interested Parties

MDHHS-Clare-Hearings
BSC2-HearingDecisions
D. Sweeney
M. Holden
MOAHR

Via-First Class Mail :

Petitioner

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