



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 16, 2022
MOAHR Docket No.: 22-004754
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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 14, 2022. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Jacob Johnson, Assistance Payments Worker.

ISSUE

Did the Department properly deny Petitioner's application 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. From August 30, 2022 through September 2, 2022, Petitioner experienced a power outage.
2. Petitioner contacted via phone and visited the local office numerous times between September 2, 2022 and September 26, 2022 seeking assistance with the loss of her food.
3. On September 26, 2022, Petitioner obtained verification from DTE of the dates of the power outage.
4. On the same date, Petitioner submitted a Food Replacement Affidavit with a copy of the DTE outage verification to the Department. This was the first time Petitioner was offered a copy of the affidavit to be filled out and submitted to the Department.

5. On October 12, 2022, Petitioner submitted a request for hearing disputing her FAP benefits indicating that she had lost all of her food because of a power outage and then subsequent shut off of her utilities due to non-payment and that she had submitted the outage verification letter from DTE and shut off notice to the Department.
6. On October 21, 2022, the Department issued a Benefit Notice to Petitioner informing her that her request for FAP benefit replacement was denied because she submitted an incomplete application which failed to detail the nature of the loss and because the request was not submitted within ten days of the loss.

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 denied Petitioner's application for replacement of her food benefits due to loss from a power outage and subsequent shut-off for nonpayment. Per policy, replacements and reauthorizations are processed only if the client reports the loss timely, within ten days of the loss. BAM 502 (October 2019), p. 1. Policy does not indicate that an application or verifications must be submitted within ten days, instead policy requires that the client report the loss within ten days. In this case, Petitioner was in contact with the local office so many times after the power outage that she was told she should not be going to the local office everyday for assistance. If only the Department had provided Petitioner with the affidavit on her first visit rather than her visit on September 26, 2022, Petitioner's form would have been submitted timely. It is important to note, that per policy, the Department is required to provide assistance with forms, gathering verifications, and understanding correspondence. The Department failed to provide adequate assistance to Petitioner when it failed to give Petitioner the necessary forms until almost a month had lapsed since the loss of her food. Since Petitioner verbally reported the loss timely and because the Department failed to provide adequate assistance, the Department improperly denied Petitioner's request for food benefit replacement.

The Department also denied Petitioner's application because the Department considered her application to be incomplete because it failed to detail the nature of the

loss. Again, the Department was required to provide assistance to Petitioner in filling out forms and it failed to provide that assistance. Furthermore, Petitioner identified the dollar amount of food lost in addition to how it was lost. This information appears to be an adequate explanation of the circumstances, if not, the Department needed to be more clear about what was expected on the affidavit.

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 denied Petitioner's request for food benefit replacement.

DECISION AND ORDER

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. Reprocess Petitioner's request for food benefit replacement;
2. If otherwise eligible, issue supplements to Petitioner; and,
3. Notify Petitioner in writing of its decision.

AMTM/cc



Amanda M. T. Marler
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-Wayne-19-Hearings
BSC4-HearingDecisions
D. Sweeney
M. Holden
MOAHR

Via-First Class Mail :

Petitioner

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[REDACTED]
[REDACTED] MI [REDACTED]