



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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Date Mailed: December 8, 2022  
MOAHR Docket No.: 22-005167  
Agency No.: ██████████  
Petitioner: ██████████

**ADMINISTRATIVE LAW JUDGE: Danielle Nuccio**

**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 December 5, 2022. The Petitioner appeared and represented herself. The Department of Health and Human Services (MDHHS) was represented by Karron Walker, Eligibility Specialist.

**ISSUE**

Did MDHHS properly deny Petitioner's request for Emergency Services (ES) funds to replace stolen 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. Petitioner is an ongoing recipient of FAP.
2. On June 24, 2022, Petitioner's FAP benefits were stolen as part of the current fraud issue in Michigan.
3. Pursuant to Economic Stability Administration (ESA) Memo 2022-26, a State Emergency Relief (SER) application was issued to Petitioner to apply for replacement funds. Petitioner applied on ██████████ 2022 (Exhibit A, pp. 16-28).
4. On ██████████ 2022, MDHHS denied Petitioner's request for replacement benefits due to the fraud taking place more than 3 months ago (Exhibit A, p. 8, 29-32).

5. On November 7, 2022, MDHHS received Petitioner's timely submitted request for hearing, disputing the denial of her ES replacement funds (Exhibit A, pp. 3-5).

### **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.

MDHHS has discovered an increase in Bridge card/Electronic Benefit Transfer (EBT) card cloning incidents across Michigan. Individuals are illegally skimming Bridgecard information at certain point-of-sale devices and fraudulently accessing FAP and Cash benefits. ESA 2022-26. As a one-time exception, local office directors are allowed to approve an exception to use Emergency Service (ES) funds to assist clients who have been impacted by this fraud. Any issuance of ES funds for this purpose must be approved by both the local office director and Central Office policy staff prior to issuance. If the local office determines that the recipient is potentially eligible for ES funds due to Bridge card cloning fraud, a request must be sent to Central Office policy by a designated staff. ESA Memo 2022-26 specifically states: "Deadline to complete required actions: N/A."

In this case, Petitioner's request for ES funds to replace her stolen benefits was denied, stating that the fraud took place more than 3 months ago (see Exhibit A, p. 8, 29-32). However, policy outlined in ESA 2022-26 specifically states that there is no deadline to complete the required actions. Additionally, even if the deadline was 3 months, Petitioner applied for replacement funds on [REDACTED] 2022, which is within three months of the June 24, 2022 fraud. Therefore, MDHHS has failed to act in accordance with Department policy in denying Petitioner's request for replacement funds.

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 ES funds.

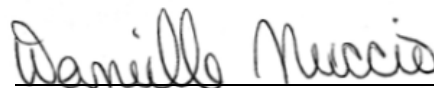
### **DECISION AND ORDER**

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. Reregister Petitioner's [REDACTED] 2022 SER application;
2. Reprocess Petitioner's eligibility for ES funds;
3. Notify Petitioner of its decision in writing.

DN/mp



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**Danielle Nuccio**

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

