



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: February 1, 2023
MOAHR Docket No.: 22-006217
Agency No.: [REDACTED]
Petitioner: [REDACTED] [REDACTED]

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 January 30, 2023, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Mary Strand, Family Independence Manager and Doris Anderson, Assistance Payments Worker.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefit case?

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 was an ongoing FAP recipient.
2. On October 20, 2022, Petitioner completed a redetermination related to her FAP benefit case (Exhibit A, pp. 16-20).
3. On November 1, 2022, the Department sent Petitioner a Verification Checklist (VCL) requesting verification of Petitioner's self-employment income (Exhibit A, pp. 13-15).
4. On November 4, 2022, Petitioner submitted financial statements (Exhibit A, pp. 5-7).

5. On December 8, 2022, the Department sent Petitioner a Notice of Case Action informing her that her FAP benefit case was closing effective December 1, 2022, ongoing, for her failure to submit the requested verifications (Exhibit A, pp. 8-12).
6. On December 27, 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 completed a redetermination related to her FAP benefit case. The Department sent Petitioner a VCL on November 1, 2022, requesting verification of her self-employment income. Proofs were due by November 14, 2022.

Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (January 2021), p. 1. To request verification of information, the Department sends a verification checklist (VCL) which tells the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. For FAP cases, the Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verification that is required. BAM 130, p. 7. Verifications are considered to be timely if received by the date they are due. BAM 130, p. 7. For electronically transmitted verifications (fax, email, or Mi Bridges document upload), the date of the transmission is the receipt date. BAM 130, p. 7. Verifications that are submitted after the close of regular business hours through the drop box or by delivery of a Department representative are considered to be received the next business day. BAM 130, p. 7. The Department sends a negative action notice when: the client indicates a refusal to provide a verification, or the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130, p. 7.

On November 4, 2022, Petitioner submitted financial statements related to her self-employment income. However, the documents have markings covering Petitioner's earnings. As a result, the Department sent Petitioner self-employment forms on November 16, 2022. The Department testified the documents were not returned, and as a result, Petitioner's FAP benefit case was closed. At the hearing, Petitioner denied

marking her earnings statements. Petitioner stated that when the Department notified her of the need to resubmit the statements, she did so in January 2023.

It is evident that Petitioner made a good faith effort to comply with the Department's verification requests. The Department sends a negative action when the client indicates a refusal to provide a verification, or the time period given has elapsed and the client has not made a reasonable effort to provide it. Petitioner initially submitted the documents timely. Per the Department's case comments, there was no evidence the Department notified Petitioner that there was an issue with her verifications until December 27, 2022 (Exhibit A, p. 24). Per the electronic casefile, Petitioner submitted financial statements on January 6, 2023 (Exhibit A, p. 23). Petitioner clearly did not indicate a refusal to provide the verification and made a reasonable effort to comply with the requests for verification. Thus, the Department did not act in accordance with policy when it closed Petitioner's FAP benefit case.

DECISION AND ORDER

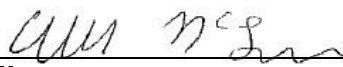
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it closed Petitioner's FAP benefit case.

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. Redetermine Petitioner's FAP eligibility as of December 1, 2022.
2. If Petitioner is eligible for benefits, issue supplements in accordance with Department policy; and
3. Notify Petitioner of its decision in writing.

EM/nr



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
Yaita Turner
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**MDHHS-Oakland-District-IV-
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Interested Parties
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MOAHR

Via-First Class Mail :

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