



GRETCHEN WHITMER
GOVERNOR

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

MARLON I. BROWN, DPA
ACTING DIRECTOR

Date Mailed: October 10, 2023
MOAHR Docket No.: 23-005035
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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 October 2, 2023. Petitioner appeared and represented himself. Jafar Almosawi facilitated Petitioner's understanding of the hearing by translating from Arabic to English. The Department of Health and Human Services (MDHHS) was represented by Valarie Foley, Hearings Facilitator.

ISSUE

Did MDHHS act in accordance with policy in closing Petitioner's Food Assistance Program (FAP) 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 recipient of FAP for a group size of six.
2. Effective August 1, 2023, MDHHS closed Petitioner's FAP case for failure to timely submit a completed Semi-Annual Contact Review (SACR) to MDHHS.
3. Due to agency error, a SACR was not issued to Petitioner.
4. On August 21, 2023, MDHHS received Petitioner's timely submitted hearing request disputing the closure of his FAP case (Exhibit A, pp. 3-5).
5. On September 5, 2023, MDHHS received Petitioner's SACR. Due to agency error, MDHHS has not yet processed the SACR.

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.

Petitioner requested a hearing regarding the closure of his FAP case.

Effective August 1, 2023, MDHHS closed Petitioner's FAP case for failure to timely submit a completed SACR. MDHHS must periodically redetermine or renew an individual's eligibility for active programs. The redetermination/renewal process includes thorough review of all eligibility factors. Redetermination, renewal, semi-annual and mid-certification forms are used to redetermine eligibility of active programs. Benefits stop at the end of the benefit period unless a redetermination/SACR is completed and a new benefit period is certified. BAM 210 (October 2022), p. 1. Bridges generates a redetermination packet to the client on the fourth day of the month before the redetermination is due. If the fourth day occurs on a holiday or on a Sunday, then the packet is sent on the next business day. This allows time to process the redetermination before the end of the redetermination month. The FAP redetermination must be completed by the end of the current benefit period so that the client can receive uninterrupted benefits by the normal issuance date. MDHHS will issue a payment for lost benefits if the client is not at fault for delayed processing that prevented participation in the first month. BAM 210, p. 20. In this case, MDHHS concedes that they failed to timely issue a SACR to Petitioner for completion. Petitioner's FAP case then automatically closed for failure to complete the SACR. MDHHS acknowledges that on September 5, 2023, Petitioner submitted a SACR, but MDHHS failed to process the SACR as required by policy. Therefore, MDHHS has not acted in accordance with policy in closing Petitioner's FAP case.

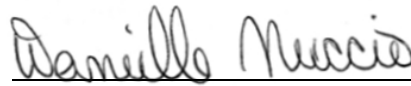
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it closed Petitioner's FAP case.

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. Complete processing Petitioner's August 1, 2023 FAP SACR;
2. If otherwise eligible, issue supplements to Petitioner for FAP benefits not previously received from August 1, 2023 ongoing; and,
3. Notify Petitioner in writing of its decision.



DN/mp

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

Via-Electronic Mail :

Interested Parties

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

Via-First Class Mail :

Petitioner

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