



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
SUZANNE SONNEBORN
EXECUTIVE DIRECTOR

MARLON I. BROWN, DPA
DIRECTOR



Date Mailed: June 11, 2024
MOAHR Docket No.: 24-004897
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Caralyce M. Lassner

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 hearing was held by telephone on June 3, 2024. Petitioner appeared and represented himself. The Department of Health and Human Services (Department) was represented by Philip Jones, Eligibility Specialist.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) case effective February 1, 2023?

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 certified group of one.
2. Petitioner is over the age of [REDACTED] (Exhibit A, p. 9).
3. On [REDACTED] 2022, Petitioner returned a completed redetermination application to the Department. The Department did not log or process Petitioner's redetermination application. (Exhibit A, pp. 1, 3 – 7).
4. On February 1, 2023, the Department closed Petitioner's FAP case in error. (Exhibit A, p. 1).

5. On April 23, 2024, the Department received a request for hearing from Petitioner. (Exhibit A, p. 1).

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 on April 23, 2024 to dispute the Department's closure of his FAP case, effective February 1, 2023, when it did not log or process the redetermination application Petitioner returned to the Department on [REDACTED] 2022.

Due to lapse of time between the date of Petitioner's FAP case closure and the instant hearing, the undersigned will first address the timeliness of Petitioner's request for hearing of April 23, 2024.

The Department's application forms and each written NOCA must inform clients of their right to a hearing, which includes an explanation of how and where to file a hearing request, and the right to be assisted by and represented by anyone the client chooses. BAM 600 (March 2021), p. 1. Clients of the Department have 90 calendar days from the date of the written NOCA to request a hearing. BAM 600, p. 6. In this case, as explained later herein, Petitioner was not issued a NOCA when his FAP case was closed effective February 1, 2023. Because Petitioner was not issued a NOCA, the 90 day limit was not activated and his request for hearing is timely.

FAP benefits stop at the end of the benefit period unless a redetermination application is completed, and a new benefit period is certified. The redetermination process begins when the client files a redetermination application. BAM 210 (January 2024), pp. 3 – 4, 13. When a complete redetermination application is received, the Department is to record the receipt of it in Bridges as soon as administratively possible. BAM 210, p. 13.

For FAP, once the redetermination has been processed and certified, the Department sends the client a Notice of Case Action (NOCA). BAM 210, p. 19. However, if the redetermination packet is not logged in by the last working day of the redetermination month, Bridges (Department's system) automatically closes FAP case and no NOCA is

generated. BAM 210, p. 14; see also BAM 220 (November 2023), p. 5. In contrast, if the client were required to complete a mid-certification contact notice or a semi-annual contact report and it was not returned or timely logged by the Department, the Department's system would automatically generate a Notice of Food Assistance Closure. BAM 210, pp. 14 – 15.

In this case, Petitioner was due for a redetermination for his FAP benefits for the certification period beginning February 1, 2023. (Exhibit A, pp. 1, 3 – 7). Petitioner returned his completed redetermination application to the Department on [REDACTED] 2022. (Exhibit A, pp. 3 – 7). The Department testified that it did not timely log or process Petitioner's FAP redetermination application. (Exhibit A, p. 1). The Department's system closed Petitioner's FAP case effective February 1, 2023. (Exhibit A, pp. 1, 8 – 9). Because Petitioner was due for a redetermination rather than a mid-certification contact or a semi-annual contact, when the Department failed to timely log or process Petitioner's FAP redetermination, Petitioner's FAP case was closed and no NOCA was sent to him. BAM 210. The Department did not act in accordance with Department policy when it failed to log and process Petitioner's completed redetermination application, returned to the Department on [REDACTED] 2022.

Supplemental FAP benefits must be issued for periods when a FAP group was eligible but received no regular benefits. BAM 406 (January 2022), p. 1. However, FAP supplements are limited to the 12 month period prior to the month the first, of any of the following actions, occurs:

- a) the Department received a request for lost benefits from Petitioner,
- b) the Department independently discovered that a loss occurred,
- c) Petitioner requested a hearing to contest a negative action by the Department that resulted in the loss, or
- d) Petitioner initiated court action to obtain lost benefits.

BAM 406, p. 3. Here, the Department became aware of its failure to log and process Petitioner's redetermination application, and thus loss of Petitioner's FAP benefits, on April 23, 2024 when Petitioner asked about his missing FAP benefits. Therefore, any supplemental FAP benefits that may be available to Petitioner would be limited to the 12 month period prior to April 2024.

It is noted that the Department testified that it attempted to reinstate Petitioner's case prior to hearing but was not able to do so, in the absence of a hearing decision, due to limitations within the Department's system. (Exhibit A, pp. 1, 10).

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 failed to log and process Petitioner's

December 2022 redetermination application and closed Petitioner's FAP case effective February 1, 2023.

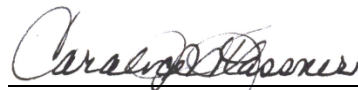
DECISION AND ORDER

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. Reinstate Petitioner's FAP case;
2. Process the redetermination application Petitioner returned to the Department on [REDACTED] 2022;
3. If Petitioner is eligible for any supplemental FAP benefits, issue supplemental payments to Petitioner for any FAP benefits he was eligible to receive but did not, from April 1, 2023 ongoing; and
4. Notify Petitioner of its decision in writing.

CML/nr



Caralyce M. Lassner
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
Yvonne Hill
Oakland County DHHS Madison Heights Dist.
30755 Montpelier Drive
Madison Heights, MI 48071
MDHHS-Oakland-DistrictII-Hearings@michigan.gov

Interested Parties

BSC4
M. Holden
N. Denson-Sogbaka
B. Cabanaw
MOAHR

Via-First Class Mail :

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