



STATE OF MICHIGAN

GRETCHEN WHITMER
GOVERNOR

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

MARLON I. BROWN, DPA
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: June 13, 2024
MOAHR Docket No.: 24-004997
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: L. Alisyn Crawford

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 June 3, 2024. Petitioner was present at the hearing and represented herself. The Department of Health and Human Services (Department) was represented by Jamila Goods, Eligibility Specialist.

ISSUE

Did the Department properly process Petitioner's Food Assistance Program (FAP) case for changes reported in March 2024 for FAP benefits effective April 1, 2024 ongoing?

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 benefits.
2. On [REDACTED] 2024, Petitioner completed a State Emergency Relief (SER) application and noted that she was no longer employed and was fired from her employer on December 17, 2023. (Exhibit A, p. 5). A SER Decision notice was issued to Petitioner on January 26, 2024. (Exhibit A, p. 18).
3. On March 11, 2024, Petitioner informed the Department that she was no longer employed, and her employment ended on December 17, 2023.
4. On March 26, 2024, the Department sent Petitioner an Employment Verification form to be completed by Petitioner's former employer and due back to the Department by April 5, 2024.

5. On March 29, 2024, Petitioner returned the Employment Verification form to the Department providing her former employer's phone number and indicated that the employer was out of town and unable to complete the form but was available by phone.
6. The Department attempted contact with the employer but was unsuccessful.
7. On [REDACTED] 2024, Petitioner reapplied for FAP benefits.
8. On April 23, 2024, the Department issued Petitioner a Notice of Case Action (NOCA), based on the [REDACTED] 2024 FAP application, notifying her that she was approved for FAP benefits in the amount of \$425 for a household size of two effective May 1, 2024. (Exhibit A, pp. 10-14).
9. On April 29, 2024, Petitioner requested a hearing to disputing the Department's actions regarding the amount of FAP benefits she received in April 2024. (Exhibit A, pp. 3-8).

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 increased FAP benefits. Petitioner believes the Department should have issued for April 2024 based on a change to Petitioner's employment and income. Petitioner reported to the Department on March 11, 2024 that her employment ended December 17, 2023. Petitioner also noted in her request for hearing that she informed the Department that she was no longer employed on [REDACTED] 2024 when she completed a SER application. (Exhibit A, p. 5). The Department did not act on this information at that time. Following Petitioner's March 11, 2024 report of no longer being employed as of December 17, 2023, the Department attempted to verify Petitioner's reported change but was unable to do so. Petitioner reapplied for FAP in [REDACTED] 2024. The Department testified that the re-application did not require employment verification due to the time between her employment end date and the date of the re-application.

The Department is to verify employment income; this includes stopped employment income. BEM 501 (July 2022) p. 10. For all programs, the Department is to tell the client what verification is required, how to obtain it, and the due date. BAM 130 (January 2023) p. 3. The Department is to use the DHS-3503, Verification Checklist (VCL), to request verification. BAM 130, p. 3. The Department should allow the client 10 calendar days (or other time limit specified in policy) to provide the verification that is requested. BAM 130, p. 7. The Department is to send a negative action notice when:

- The client indicates 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.

Income decreases that result in a benefit increase must be effective no later than the first allotment issued 10 days after the date the change was reported, provided necessary verification was returned by the due date. BEM 505 (October 2023), p. 11.

Here, Petitioner reported the loss of employment on March 11, 2024, and the Department sent her a VCL requesting verification of loss of employment on March 26, 2024. In response to the request for verification, Petitioner submitted an Employment Verification form that was not completed by her former employer but instead she provided on the form a handwritten contact information for the Employer which noted, "they said he out of town call him at [phone number] Mike." (Exhibit A, pp. 26-28). The Department attempted to make a collateral contact call to the employer but was unsuccessful. A collateral contact is a direct contact with a person, organization or agency to verify information from the client. It might be necessary when documentation is not available or when available evidence needs clarification. BAM 130 (October 2023), p. 3. At the hearing, Petitioner indicated that her former employer was out of the country due to a religious holiday but felt she should not be held penalized because her former employer was not available to complete the Employment Verification form or speak directly to the Department.

The Department testified that the submitted form was insufficient verification of employment status to process Petitioner's reported change for her FAP case. Additionally, because a collateral contact was unsuccessful, the verification was not obtained regarding Petitioner's employment status. Even if the household member is no longer working for a given employer, attempts must be made for the former employer to verify that employment ended. If a client is unable to obtain verification, the Department must assist them. Further, if neither the client nor the local can obtain verification despite a reasonable effort, the Department should use the best available information. BAM 130, p. 4. If no evidence is available, the Department should use their best judgment.

In this case, both Petitioner and the Department make numerous reasonable attempts to verify Petitioner's employment status. Petitioner attempted to have her former employer complete the verification form provided by the Department, the former employer refused and only provided her with the owner's phone number. The Petitioner

provided the number to the Department. Since the Department was unable to reach the owner, the Department should have used the best information available to them or use its best judgement. The Department's SER decision notice provides corroboration of Petitioner's testimony that she notified the Department of her loss of employment in December 2023. Therefore, the Department did not act in accordance with policy when it did not process Petitioner's reported loss of employment change for her FAP case based on Petitioner's failure to provide verification.

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 did not process Petitioner's reported employment change when Petitioner failed to provide verification of the change.

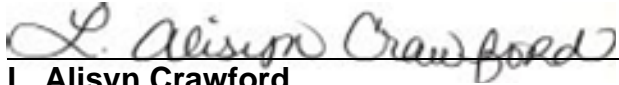
DECISION AND ORDER

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. Process Petitioner's reported loss of employment for the April 1, 2024 FAP benefit period, based on the Department's best available information;
2. If Petitioner is eligible for FAP benefits, issue supplements to Petitioner for any FAP benefits she was eligible to receive but did not for the April 1, 2024 FAP benefit period; and
3. Notify Petitioner of its decision in writing.

LC/ml


L. Alisyn Crawford
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
Susan Noel
Wayne-Inkster-DHHS
26355 Michigan Ave
Inkster, MI 48141
MDHHS-Wayne-19-Hearings@michigan.gov

Interested Parties

BSC4
M Holden
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N Denson-Sogbaka
MOAHR

Via First Class Mail:

Petitioner
[REDACTED]
MI [REDACTED]