



GRETCHEN WHITMER
GOVERNOR

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

MARLON BROWN
DIRECTOR

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[REDACTED]
[REDACTED] MI [REDACTED]

Date Mailed: December 4, 2024
MOAHR Docket No.: 24-010915
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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, an in person hearing was held on November 26, 2024, from Owosso, Michigan. The Petitioner was represented by himself. The Department of Health and Human Services (Department) was represented by Amy Doyle. Department Exhibit 1, pp. 1-32 was received and admitted.

ISSUE

Did the Department properly deny Petitioner's Food Assistance Program (FAP) replacement request?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On August 28, 2024, Petitioner's refrigerator stopped working.
2. At hearing, Petitioner testified that he believed a power surge related to a power outage caused the refrigerator to stop working. Petitioner also testified that he had an appliance protection plan with his power company but the repair worker did not appear at the scheduled time causing more food to spoil.
3. On September 4, 2024, Petitioner filed a Food Replacement Affidavit requesting reimbursement totaling \$162.41.
4. On September 6, 2024, a Benefit Notice was sent to Petitioner informing him that his request for food replacement was denied because equipment failure is not one of the events covered under the food replacement policy in BAM 502.

5. On September 17, 2024, Petitioner requested hearing disputing the denial of food replacement.

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.

Domestic Misfortune or Disaster Domestic misfortunes or disasters include events which occur through no fault of the client, such as fires, floods or electrical outages. Verify the circumstances through a collateral contact, a community agency, utility company or a home visit, and note it on the DHS-601. BAM 502 (January 2024)

In this case, Petitioner testified at hearing and stated in his affidavit that he had spoiled food due to an equipment failure with his refrigerator. Petitioner testified that he believed a power outage caused an electrical surge that caused his refrigerator to stop working. Petitioner had an appliance protection plan and reached out to have the refrigerator repaired, a repair was scheduled but the contracted worker did not show up. Petitioner argued that the failure of his refrigerator was related to an electrical outage and was no fault of his own, also the repair worker failing to appear as scheduled was also no fault of his own and these circumstances fall under the definition of domestic misfortune under BAM 502.

The Department denied the food replacement request because equipment failure was not one of the listed examples of domestic misfortune.

Petitioner's circumstances of having his refrigerator fail and then a contracted repairman fail to show up for a scheduled repair meet the definition of domestic misfortune under BAM 502 because they occurred through no fault of the client and is analogous to the cited example in policy of an electrical outage. Therefore, the Department denial of food replacement was incorrect.

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 food replacement request.


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. Reprocess Petitioner's August 28, 2024, food replacement request.
2. Issue replacement FAP benefits to Petitioner in accordance with Department policy and this Hearing Decision; and
3. Notify Petitioner of its decision in writing.

AM/ml



Aaron McClintic
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
Amy Doyle
Shiawassee County DHHS
1720 East Main Street
Owosso, MI 48867
MDHHS-Shiawassee-Hearings@michigan.gov

Interested Parties

BSC4
L Karadsheh
MOAHR

Via First Class Mail:

Petitioner

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