



GRETCHEN WHITMER  
GOVERNOR

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

MARLON BROWN  
DIRECTOR

[REDACTED] MI [REDACTED]

Date Mailed: November 6, 2024  
MOAHR Docket No.: 24-011088  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun**

**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 28, 2024, from Detroit, Michigan. Petitioner appeared for the hearing and represented himself. The Department of Health and Human Services (Department) was represented by Sherian Carden, Assistance Payments Worker.

**ISSUE**

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

**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 is an ongoing recipient of FAP benefits.
2. On or around September 4, 2024, Petitioner signed and completed a Food Replacement Affidavit, requesting replacement FAP benefits in the amount of \$200. The Food Replacement Affidavit did not identify a reason for the replacement request but Petitioner submitted two letters from DTE indicating that he had a storm related electric power outage at his home from August 28, 2024 through August 31, 2024. (Exhibit A, pp. 8-12)
3. The Department made a collateral contact with DTE via email to verify the power outage reported by Petitioner. Through email communications with the Department, a representative from DTE advised that power service to Petitioner's home was out on August 28, 2024 from 5:54 AM to 4:31 PM and a second outage occurred on

August 30, 2024 at 9:12 PM with power being restored on August 31, 2024, at 1:22 AM. (Exhibit A, p. 13-16)

4. On or around September 30, 2024, Petitioner requested a hearing disputing the Department's actions. (Exhibit A, pp. 3-5)
5. On or around October 8, 2024, the Department sent Petitioner a Benefit Notice, advising him that his request for food replacement was denied because there was inconsistent information regarding the outage provided by Petitioner and DTE. (Exhibit A, pp. 18-19)
  - a. The Department also asserted that the request for FAP benefit replacement was denied because based on the information from DTE, the power was not out for a long enough period for Petitioner's food to be destroyed.

### **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.

FAP recipients may be issued a replacement of FAP benefits when food purchased with FAP benefits has been destroyed in a domestic misfortune or disaster and reported timely. There is no limit to the number of replacements for food purchased with Food assistance benefits and destroyed in a domestic misfortune or disaster. Replacements and reauthorizations are processed only if the client reports the loss timely, within 10 days if the loss is due to domestic misfortune or disaster. However, if the 10<sup>th</sup> day falls on a weekend or holiday and it is reported on the next workday, it is still considered timely. If approving or denying a replacement, the Department will send the client a MDHHS-176, Client Notice within 10 days of the client's request. Domestic misfortunes or disasters include events which occur through no fault of the client, such as fires, floods or electrical outages. BAM 502 (January 2024), pp. 1-2. The Department will verify the circumstances through a collateral contact, a community agency, utility company, or a home visit. This information should be noted on the DHS – 601, Food Replacement Affidavit. The Department will discuss with the client the amount of food originally purchased with FAP benefits that was lost as a result of the domestic misfortune or disaster and if eligible, replace the amount the client states they have lost, up to the value of the current month's

allotment. The client must complete the DHS – 601, Food Replacement Affidavit describing the loss. BAM 502, pp. 1-2.

In this case, Petitioner disputed the Department's denial of his request for food replacement. In connection with his Food Replacement Affidavit, Petitioner submitted two letters from DTE verifying the days of the power outage at his home. Petitioner credibly testified that he had more than one power outage during those days and asserted that the time periods identified in the email were not accurate. Petitioner credibly testified that his power was out more than the time period identified in the email and presented the letters from DTE in support of his testimony. At the hearing, the Department representative testified that the request was denied because both outages identified in the email from a DTE representative weren't long enough for Petitioner's food to spoil or be destroyed; however, the Benefit Notice indicates that the request was denied because the Department was unable to determine the outage due to inconsistent info from DTE and the customer. The denial reasons identified by the Department were inconsistent and conflicting. Petitioner's credible testimony, coupled with the verification letters he submitted from DTE were sufficient to show that his home had a storm related electrical power outage from August 28, 2024, through August 31, 2024. Therefore, the Department failed to establish that it properly denied Petitioner's request for food benefit replacement, as Petitioner's situation meets the description of domestic misfortune.

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 request for food benefit replacement.


**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. Register and reprocess Petitioner's August 2024 request for food benefit replacement in the amount of \$200;
2. Issue FAP supplements to Petitioner for any FAP benefits he was entitled to receive but did not, in accordance with Department policy; and
3. Notify Petitioner in writing of its decision.

ZB/ml

  
**Zainab A. Baydoun**  
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**

Chelsea McCune  
Macomb County DHHS Warren Dist.  
13041 E 10 Mile  
Warren, MI 48089

**MDHHS-Macomb-20-Hearings@michigan.gov**

**Interested Parties**

BSC4

M Holden

B Cabanaw

N Denson-Sogbaka

MOAHR

**Via First Class Mail:**

**Petitioner**

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