



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] MI [REDACTED]

Date Mailed: November 15, 2024
MOAHR Docket No.: 24-011444
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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 November 6, 2024. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Angela Ware, Eligibility Specialist.

ISSUE

Did the Department properly determine Petitioner's Food Assistance Program (FAP) eligibility?

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 September 11, 2024, the Department completed a mass update and auto-certified Petitioner's FAP case resulting in a Notice of Case Action being issued informing Petitioner his FAP case was closing effective November 2023 for failure to verify loss of employment or earned income for verifications that were due October 6, 2023.
2. On October 4, 2024, the Department received Petitioner's request for hearing regarding the closure of Petitioner's FAP benefits indicating he was not properly notified of any requests for verification.
3. On the same day, the Department received Petitioner's application for FAP benefits listing himself as the only household member with employment income from Lincoln Park Manor with irregular/sporadic hours paid on a weekly basis in addition to

Retirement Survivors Disability Insurance (RSDI) benefits. Petitioner also listed expenses for rent, property taxes, medical expenses, and utilities.

4. The Department recognized the error in failing to issue a closure notice timely in 2023 and reprocessed Petitioner's FAP case in 2024 after Petitioner's request for hearing.

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.

In this case, the Department closed Petitioner's FAP case effective November 2023 with a Notice of Case Action dated September 11, 2024 because the Department did not receive requested documentation. Pursuant to policy, the Department is required to verify earned and unearned income at application, redetermination, or when a change is reported. BAM 130 (May 2024), p. 1; BEM 501 (January 2024), p. 10; BEM 503 (April 2024), p. 44. In order to verify information, the Department must tell the client what verification is required, how to obtain it, and the due date using a VCL. BAM 130, p. 3. The Department has not shown that it has complied with policy by properly requesting verification of Petitioner's income. Furthermore, clients are allowed 10 calendar days to comply with the verification request. BAM 130, p. 7. Negative action notices are sent when the client indicates a refusal to provide a verification or when the time period given has lapsed and the client has not made a reasonable effort to comply. *Id.* The Department has not shown that it afforded Petitioner the appropriate time to respond to a request for verification and that he failed to make a reasonable effort to comply. Therefore, the Department has not shown that it has properly closed Petitioner's FAP case.

Although the Department testified that it had reprocessed Petitioner's FAP case from November 2023 and conceded its error, the Department provided no documentation or other evidence to show that the case was actually reprocessed. Instead, the Department provided evidence showing that it had processed Petitioner's application from [REDACTED] 2024 which is not relevant to this case because the application was received on the same day as Petitioner's request for hearing.

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 effective November 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. Redetermine Petitioner's FAP eligibility effective November 1, 2023;
2. If otherwise eligible, issue FAP supplements to Petitioner for benefits not previously received; and,
3. Notify Petitioner in writing of its decision.

AM/ml



Amanda M. T. Marler
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

Tracy Felder
Wayne-Southwest-DHHS
2524 Clark Street
Detroit, MI 48209
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Interested Parties

BSC4
M Holden
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MOAHR

Via First Class Mail:

Petitioner

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