



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

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

Date Mailed: November 25, 2024
MOAHR Docket No.: 24-011907
Agency No.: [REDACTED]
Petitioner: [REDACTED] [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 November 18, 2024. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Toia Mattison-Brown, Assistance Payments Worker.

ISSUE

Did the Department properly process Petitioner's request for replacement of stolen Food Assistance Program (FAP) benefits?

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 receipt of FAP benefits.
2. On May 13, 2024, Petitioner reported to the Department that FAP benefits had been stolen from her.
3. On May 24, 2024, Petitioner received a replacement Electronic Benefit Transfer (EBT) card from the Department.
4. On July 19, 2024, Petitioner submitted a completed Affidavit to the Department, reporting \$260.52 in stolen FAP benefits. (Exhibit A, pp. 8 – 10).

5. On October 18, 2024, Petitioner requested a hearing disputing the Department's failure to issue replacement FAP benefits to her. (Exhibit A, pp. 3 – 4).
6. On October 24, 2024, the local Department office processed Petitioner's Affidavit. (Exhibit A, p. 10).
7. As of the date of the hearing, no replacement FAP benefits or denial notice had been issued to Petitioner.

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.

The Economic Stability Administration (ESA), a division of the Michigan Department of Health and Human Services, issues supplemental policies and processes concerning or addressing issues related to the Food Assistance Program, among others, as needed.

Petitioner requested a hearing regarding her reported theft of FAP benefits, in the amount of \$260.52, to the Department in May 2024 and July 2024, and requested replacement benefits. The Department had not issued replacement benefits or denied Petitioner's request prior to her request for hearing.

ESA Memo 2023-53 (ESA 2023-53) addresses the issue of Bridge Card Fraud as it relates to FAP benefits and other programs. (October 2023, updated October 2024). The memo outlines the process that must be utilized if a FAP recipient reports their benefits stolen by fraud and certain deadlines related to the recipient's loss. In conjunction with the memo, the ESA also issued the FAP Bridge Card Fraud Replacement Local Office Process Guide (Process Guide).

When a FAP recipient reports to the Department that their FAP benefits have been stolen by fraud and requests replacement benefits, the Department must follow the Process Guide for FAP claims. ESA 2023-53, p. 3. Specifically, the local Department office must do all of the following:

1. Document the request in the client's file,

2. Manually generate the Food Replacement Affidavit within 24 hours of the request, and manually generate a Verification Checklist (VCL), with a due date of 10 business days to accompany the Affidavit, and
3. Provide the Affidavit to the client by mail, in person, or in some other manner.

Once the completed Affidavit, that indicates that benefits were stolen due to fraud, has been returned to the Department, the local office specialist and a local office supervisor must sign the approved Affidavit and forward it to Central Office (CO) for final approval or denial. ESA 2023-53, pp. 3 – 4.

During the hearing, the Department acknowledged that it did not process Petitioner's Affidavit until it received her request for hearing in October 2024. Based on the Department's testimony and the evidence presented, the Department failed to act in response to Petitioner's initial report of her stolen benefits, or to process the completed Affidavit in compliance with the Process Guide. (Exhibit A, p. 10). Therefore, the Department did not act in accordance with Department policy when Petitioner reported her stolen FAP benefits.

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 process Petitioner's Affidavit.

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 Food Replacement Affidavit and determine if she is entitled to replacement FAP benefits;
2. If eligible, issue any replacement FAP benefits Petitioner is determined to be entitled to; and
3. Notify Petitioner of its decision in writing.

CML/nr



Caralyce M. Lassner
Administrative Law Judge

