



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.: 24-012019
Agency No.: [REDACTED]
Petitioner: [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 20, 2024. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Katrina Brown, Eligibility Specialist.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) case?

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 4, 2024, the Department sent a FAP redetermination application to Petitioner with a due date of September 24, 2024. (Exhibit A, pp. 6 – 12).
2. September 26, 2024, the Department sent Petitioner a Verification Checklist (VCL). (Exhibit A, p. 14).
3. On October 8, 2024, the Department sent a Notice of Missed Appointment to Petitioner, which stated that the Department had not received her redetermination application prior to the scheduled interview and that Petitioner was responsible for returning the redetermination application and rescheduling her interview before October 31, 2024. (Exhibit A, p. 13).

4. On October 18, 2024, the Department received a completed FAP redetermination from Petitioner. Petitioner reported her household to include herself and her adult daughter, [REDACTED] (Daughter). (Exhibit B, pp. 1 – 5).
5. On October 25, 2024, the Department received a request for hearing from Petitioner. (Exhibit A, pp. 3 – 5).
6. On November 1, 2024, the Department sent an appointment notice to Petitioner that a telephone interview was scheduled for November 12, 2024. (Exhibit A, p. 21).
7. On November 14, 2024, the Department interviewed Petitioner for her FAP redetermination. Petitioner reported herself and Daughter as employed. (Exhibit B, pp. 6 – 12).

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 closure of her FAP case. The Department testified Petitioner's case was closed as of the date of the hearing.

When a group is actively receiving FAP benefits, the Department must periodically redetermine or renew an individual's eligibility for active programs. BAM 210 (October 2024), p. 1. For FAP groups such as Petitioner's, the redetermination process includes a completed redetermination application and an interview. BAM 210, pp. 3, 5, 21 – 22. For FAP, if a client fails to return the redetermination application or misses the interview appointment, Department is to send a Notice of Missed Appointment advising the client that it is their responsibility to reschedule the interview. BAM 115 (May 2024), p. 23. If the client attempts to reschedule the interview, it should be scheduled prior to the 30th day, if possible. BAM 115, p. 23. Benefits stop at the end of the benefit period unless a redetermination is completed, and a new benefit period is certified. BAM 210, p. 3.

As a preliminary matter, Petitioner was due for a redetermination for FAP, and the Department sent her a redetermination application on September 4, 2024, which was due to the Department on September 24, 2024, and included notice that Petitioner's

FAP interview was scheduled for October 8, 2024. (Exhibit A, pp. 6 – 12). At that time, Petitioner had both a street address and mailing address on file with the Department and the Department sent the redetermination application to Petitioner's mailing address. The Department did not receive a completed redetermination application from Petitioner by October 8, 2024, and sent her a Notice of Missed Appointment which stated that the Department had not received her redetermination application prior to the scheduled interview and that Petitioner was responsible for returning the redetermination application and schedule her interview before October 31, 2024. (Exhibit A, p. 13). The Department mailed the Notice of Missed Appointment to Petitioner's street address. Petitioner testified that she did not receive the redetermination application in the mail but did receive the Notice of Missed Appointment, and obtained a redetermination application from the local office which she returned to the Department the same day, on October 18, 2024. (Exhibit B, pp. 1 – 5). Petitioner credibly testified that on October 25, 2024, she requested to reschedule her required interview, which was also the date she requested a hearing. On November 1, 2024, the Department sent Petitioner an appointment notice that her interview was scheduled for November 12, 2024 (Exhibit A, p. 21) and Petitioner completed her redetermination interview on November 14, 2024. (Exhibit B, pp. 6 – 12).

Although it would appear that closure of Petitioner's FAP may have been based on her failure to complete the redetermination interview before November 1, 2024, during the hearing, the Department testified that Petitioner's FAP case was closed because a new hire form was sent to Petitioner regarding Daughter on February 20, 2024, and again on May 20, 2024, and was not returned. The Department did not clearly explain why a new hire form originally sent in February 2024 remained required as of the date it closed Petitioner's FAP case, and testified that the issue was not brought to Petitioner's attention during her redetermination interview. And although the date Petitioner's FAP case was closed was not provided during the hearing, Petitioner testified that she did not receive her FAP benefits for November 2024.

The Department also sent two wage match notices to Petitioner on October 21, 2024, and testified both were due on November 20, 2024, the date of the hearing, and both related to Daughter's employment, but did not allege they were not returned. It was not clear whether either wage match notice was for the same employer as the new hire form originally sent to Petitioner on February 20, 2024 or if the new hire form remained outstanding at the time of Petitioner's redetermination. (Exhibit A, p. 14; see also p. 15, Serial No. 160 – 163). Petitioner testified that both wage match notices were returned to the Department by U.S. Mail on November 18, 2024. Additionally, the Department sent Petitioner a VCL on September 26, 2024, but was unable to identify what verifications it requested, and did not allege that Petitioner failed to provide any documents. (Exhibit A, p. 14). The Department also did not introduce a Notice of Case Action regarding the closure of Petitioner's FAP case, which may have clearly identified why the Department closed her case. Based on the totality of the foregoing, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Petitioner's FAP case.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Petitioner's FAP case.

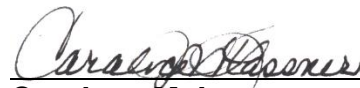
DECISION AND ORDER

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 eligibility for FAP benefits effective November 1, 2024 ongoing;
2. If Petitioner is eligible for any supplemental FAP benefits, issue supplemental payments to Petitioner for any FAP benefits she was eligible to receive but did not, from November 1, 2024 ongoing; and
3. Notify Petitioner of its decision in writing.

CML/nr



Caralyce M. Lassner
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
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B. Cabanaw
MOAHR

Via-First Class Mail :

Petitioner
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[REDACTED]
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