



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

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██████████, MI ██████████

Date Mailed: December 12, 2024
MOAHR Docket No.: 24-012248
Agency No.: ██████████
Petitioner: ██████████ ██████████

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 December 2, 2024. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Alisha Howard, Eligibility Specialist, and Kmbali Carey, Lead Worker.

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. Petitioner is married to ██████████ ██████████ (Spouse) and was an ongoing recipient of FAP for a three-person FAP group comprised of herself, ██████████ ██████████ (UK), and ██████████ ██████████ ██████████ (EK). Spouse was not included in the FAP group. (Exhibit A, pp. 25 – 26).
2. On ██████████ ██████████ 2024, the Department received an application for Child Development and Care (CDC) from Petitioner.
3. On August 26, 2024, the Department interviewed Petitioner and sent her a Verification Checklist (VCL) for CDC and FAP that requested Petitioner provide verification of a) Petitioner and Spouse's school attendance, and b) Petitioner's residential address, to the Department by September 5, 2024. (Exhibit A, pp. 8 – 9).

4. On September 11, 2024, the Department sent Petitioner a Notice of Case Action (NOCA) that denied Petitioner CDC, and closed Petitioner's FAP case effective October 1, 2024, for failure to return the requested verifications. (Exhibit A, pp. 24 – 26).
5. On October 28, 2024, the Department received a request for hearing from Petitioner disputing the Department's closure of her FAP case. (Exhibit A, p. 3).

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 to dispute the Department's closure of her FAP case. The Department closed Petitioner's FAP case for failure to provide verification of her and Spouse's school attendance.

Changes in circumstances may be discovered through a report by the client, which includes applications submitted by a client for additional assistance programs, computer tape matches, quality assurance reviews, or other means. BAM 220 (July 2023), p. 1. Once the Department is aware of a change, it must thoroughly review of all eligibility factors. BAM 210 (January 2024), p. 1; BAM 220, p. 1. When determining initial and ongoing eligibility, verification is usually required. BAM 130 (May 2024), p. 1. To request verification of information, the Department sends a VCL which tells the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. The Department sends a NOCA closing the client's case when the client refuses to provide the verification or when the verification due date has passed, and the client has not made a reasonable effort to provide the requested documents. BAM 130, pp. 7 – 8.

Clients who are in student status must meet the criteria set forth in BEM 245 to be eligible for FAP. BEM 212 (March 2024), p. 10. For purposes of FAP, a person is in student status if they are age 18 – 49 and enrolled half-time or more in a) a vocational, trade, business, or technical school that usually requires a high school diploma or GED, or b) at college or university that offers degree programs regardless of whether a diploma is required. BEM 245 (July 2023), pp. 3 – 4. In order for a person in student status to be eligible for FAP benefits, they must meet at least one of the criteria listed in

the student status policy, such as maintaining employment for an average of 20 hours per week, be enrolled in the Perkins program, be working in a state or federally-funded work study program, or be physically or mentally unfit for employment, among other things. BEM 245, pp. 3 – 6. To verify that they meet the criteria for FAP eligibility set forth in BEM 245, the client must provide verification such as their hours of employment or self-employment, a disability, or enrollment in the Perkins Program. BEM 245, pp. 12 – 13.

In this case, Petitioner submitted an application for CDC to the Department on [REDACTED] 2024. The Department testified that because Petitioner provided updated income information on the CDC application, it was necessary for the Department to redetermine Petitioner's FAP eligibility. The Department sent Petitioner a VCL on August 26, 2024 that requested Petitioner provide verification of a) Petitioner and Spouse's school attendance, and b) Petitioner's residential address, to the Department by September 5, 2024. (Exhibit A, pp. 8 – 9). The VCL did not request verification of any income, hours of employment or self-employment, a disability, or enrollment in the Perkins Program, for Petitioner or Spouse.

There was no dispute that Petitioner did not provide the requested verifications to the Department by September 5, 2024, and the Department closed Petitioner's FAP case effective October 1, 2024. (Exhibit A, pp. 24 – 26). However, the NOCA the Department sent to Petitioner closing her FAP case stated FAP was closed for failure to provide verification of school attendance of herself and Spouse (Exhibit A, p. 26) when it was undisputed that Petitioner and Spouse are full time university students. Although the Department's request for verification of school attendance may have been necessary to determine Petitioner's eligibility for CDC, the Department could not clearly explain why verification of Petitioner's and Spouse's school attendance was required to determine her ongoing FAP eligibility. Once Petitioner disclosed that she and Spouse were full time university students, they were in student status, and their FAP eligibility as it related to student status was contingent on hours of employment, disability, and/or enrollment in the Perkins Program. Therefore, the Department failed to establish that it properly closed Petitioner's FAP case for Petitioner's failure to provide verification of her and Spouse's school attendance.

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 closed Petitioner's FAP case effective October 1, 2024.

DECISION AND ORDER

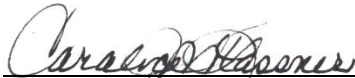
Accordingly, the Department's decision is **REVERSED**.

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. Reinstate Petitioner's FAP case effective October 1, 2024 ongoing;
2. If Petitioner is eligible for FAP benefits, issue supplemental payments to Petitioner for any FAP benefits she was eligible to receive but did not, for October 1, 2024 ongoing;
3. Redetermine Petitioner's FAP eligibility based on any reported or discovered changes in accordance with policy, and request verifications if necessary; and
4. 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

Trista Waishkey
Washtenaw County DHHS
22 Center Street
Ypsilanti, MI 48198

MDHHS-Washtenaw-Hearings@michigan.gov

Interested Parties

BSC4
M. Holden
N. Denson-Sogbaka
B. Cabanaw
MOAHR

Via-First Class Mail :

Petitioner

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