



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: December 27, 2024
MOAHR Docket No.: 24-012868
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Danielle R. Harkness

HEARING DECISION

On November 19, 2024, Petitioner, [REDACTED] requested a hearing to dispute the expungement of summer electronic benefit transfer (SEBT) program benefits for her school-age child. As a result, a hearing was scheduled to be held on December 18, 2024. Public assistance hearings are held 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. Petitioner appeared and represented herself. Respondent, Department of Health and Human Services (Department), had Eligibility Specialist Stephanie Greer appear as its representative.

A 16-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

ISSUE

Did the Department properly expunge Petitioner's SEBT 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. On July 8, 2024, the Department issued SEBT benefits to Petitioner for her school-age child.
2. On July 12, 2024, the Department mailed a summer EBT issuance notice to Petitioner. The notice advised Petitioner that "S-EBT benefits must be used in full within 122 days from date of issuance."
3. The Department issued the SEBT issuance notice and SEBT card via mail to the current mailing address on file.

4. Petitioner asserted that she did not receive the July 12, 2024, Summer EBT Issuance Notice or the EBT card.
5. On October 8, 2024, the Department issued a SEBT expungement notice to Petitioner stating that the SEBT funds needed to be used by November 7, 2024, or the funds would be expunged.
6. On or around October 24, 2024, Petitioner received the SEBT expungement notice and contacted the Department to request another EBT card.
7. A few days prior to November 6, 2024, Petitioner received a call from the Department advising Petitioner that the new EBT card could be picked up at Petitioner's local MDHHS office.
8. On November 6, 2024, Petitioner picked up the EBT card at Petitioner's local MDHHS office.
9. On November 7, 2024, Petitioner attempted to use the EBT card but was unable to do so as the funds had been expunged.
10. On November 19, 2024, Petitioner requested a hearing to dispute the expungement of Petitioner's child's SEBT benefits.

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 FAP 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 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, Petitioner disputed the Department's expungement of SEBT benefits.

The SEBT program is a federally funded program that provides grocery-buying benefits to low-income families with school-age children when schools are closed for the summer as a supplement to summer meal sites. BEM 619 (June 1, 2024), p. 1. A one-time lump sum benefit of \$120.00 per eligible child is issued. *Id.* at 2. This payment covers the months of June, July, and August. *Id.* Students are issued the SEBT benefits one of the following ways:

1. Benefits for children on existing FAP, TANF, or FDPIR groups will be placed on the head of household's Bridge card associated with the case.

2. Benefits for children in an existing MA group will be placed on a new card in the head of household's name and include all eligible children in the group.
3. Benefits for children enrolled in the NSLP/SBP and found eligible through the SEBT application process will receive individual cards.

Id. at 3.

The EBT card will be sent to the current mailing address on file with MDHHS or the school. *Id.* The SEBT benefits, in their entirety, must be used within 122 days after the issuance date. *Id.* at 4. Regardless of if they were partially used or recently used, after 122 days the benefit will be expunged. *Id.* A letter will be issued to the client no later than 30 days prior to the benefits being expunged. *Id.*

Here, the Department testified that Petitioner's school-age child qualified for SEBT benefits as a member of an eligible MA household and issued \$120.00 of SEBT benefits to Petitioner on July 8, 2024, via an EBT card that was mailed to Petitioner's current mailing address on file and was not returned as undeliverable to the Department. Petitioner testified that she did not receive the July 12, 2024, Summer EBT Issuance Notice or the EBT card.

The Department testified that on October 8, 2024, an expungement notice was mailed to Petitioner informing her that the benefits must be spent by November 7, 2024. The Department did not produce a copy of the notice for purposes of the hearing. The Department argued that it properly expunged the benefits at 12:00 a.m. on November 7, 2024.

Petitioner testified that on or around October 24, 2024, she received the SEBT expungement notice and contacted the Department to request another EBT card. A few days prior to November 6, 2024, Petitioner received a call from the Department advising Petitioner that the new EBT card could be picked up at Petitioner's local MDHHS office. On November 6, 2024, Petitioner picked up the EBT card at her local MDHHS office. On November 7, 2024, Petitioner attempted to use the EBT card but was unable to do so as the funds had been expunged. At the hearing, Petitioner argued that because she was advised by the Department that she had to use the funds by November 7, 2024, and that she was further advised that she had until midnight on November 7, 2024, to use the funds that the funds should not have been expunged at 12:00 a.m. on November 7, 2024.

Although the Department failed to produce the letter it issued to Petitioner informing her of the date the benefits were required to be used, the Department testified that the letter informed Petitioner that the benefits must be spent by November 7, 2024. However, the word "by" is defined as "during the course of" or "not later than." Merriam Webster, <https://www.merriam-webster.com/dictionary/by>, last accessed December 19, 2024. Based on the definition of "by", Petitioner's interpretation that she had the full day of November 7, 2024, to spend the benefits is reasonable. This interpretation is also consistent with 7 CFR 292.15(h)1(i), which requires that the benefits must be expunged

“after” their issuance. Because the SEBT benefits should have been accessible to the Petitioner during the course of November 7, 2024, the Department erred when it expunged the benefits at 12:00 a.m. on November 7, 2024.

Further, the evidence shows that Petitioner was reasonable to conclude that she had until the end of the day on November 7, 2024, to use the funds after being advised by a department representative that she had until midnight on November 7, 2024, as midnight could be interpreted as the end of the day on November 7, 2024.

DECISION AND ORDER

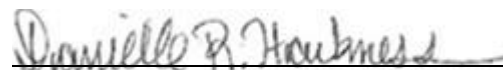
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to act in accordance with its policies and the applicable law when it expunged SEBT benefits for Petitioner’s child.

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. Issue Petitioner supplemental FAP benefits for the balance of the unused SEBT benefits that were expunged.

DH/pt



Danielle R. Harkness

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
Nicolette Vanhavel
235 S Grand Ave Ste 1403
Lansing, MI 48933
MDHHS-SSPC-Central-Hearing@Michigan.gov

Interested Parties
BSC2
M Holden
B Cabanaw
N Denson-Sogbaka
MOAHR

Via-First Class Mail:

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