



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

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Date Mailed: June 13, 2019
MOAHR Docket No.: 19-005015
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 June 12, 2019, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Danielle Williams, specialist.

ISSUE

The issue is whether MDHHS properly denied Petitioner's application for 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. On April 9, 2019, Petitioner applied for FAP benefits. Petitioner reported the recent loss of one job and ongoing employment with [REDACTED] (hereinafter, "Employer"). Exhibit A, pp. 6-16.
2. On April 10, 2019, Petitioner applied for State Emergency Relief (SER) seeking assistance with relocation. Petitioner again reported ongoing employment with Employer. Exhibit A, pp. 17-26.
3. On April 11, 2019, MDHHS mailed Petitioner a Verification Checklist (VCL) requesting proof of last 30 days of income, among other items. Exhibit A, pp. 28-29.

4. On April 18, 2019, MDHHS denied Petitioner's SER application. Exhibit A, pp. 31-32.
5. On April 19, 2019, MDHHS conducted a FAP-benefit interview with Petitioner. Petitioner reported stopped employment with Employer.
6. On April 24, 2019, MDHHS mailed Petitioner a VCL requesting verification of loss of employment with Employer, among other items. Petitioner's due date was May 6, 2019. Exhibit A, pp. 51-52.
7. On May 8, 2019, MDHHS denied Petitioner's application for FAP benefits due to Petitioner failing to verify loss of employment with Employer.
8. On May 13, 2019, Petitioner requested a hearing to dispute the denials of SER and FAP benefits. Exhibit A, pp. 2-3.
9. As of May 13, 2019, Petitioner had not submitted proof of loss of employment with Employer.
10. On June 12, 2019, during an administrative hearing, Petitioner verbally withdrew his dispute of SER denial.

CONCLUSIONS OF LAW

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Department of Human Services) pursuant to MCL 400.10 and Mich Admin Code, R 400.7001-.7049. SER policies are contained in the Emergency Relief Manual (ERM).

Petitioner's hearing request disputed a denial of an application dated June 10, 2019, requesting relocation services under SER. During the hearing, Petitioner withdrew his dispute. MDHHS had no objections to Petitioner's withdrawal. Concerning Petitioner's dispute of SER, Petitioner's hearing request will be dismissed.

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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner also requested a hearing to dispute a denial of FAP benefits. A Notice of Case Action dated May 8, 2019, stated that Petitioner's application was denied due to a failure to verify various items including loss of employment. The analysis will only

consider whether Petitioner's application was properly denied for a failure to verify a loss of employment.

For FAP benefits, MDHHS is to verify income at application. BEM 505 (October 2017) p. 14. MDHHS is also to verify income that stopped within the 30 days prior to the application date or while the application is pending and before certifying the group. *Id.*

In the present case, Petitioner applied for FAP benefits when he was employed and reported 10 days later during an interview that he recently lost employment. Petitioner's reporting happened before MDHHS processed Petitioner's FAP eligibility. MDHHS was authorized to pursue verification of Petitioner's stopped income with Employer.

For all programs, MDHHS is to tell the client what verification is required, how to obtain it, and the due date. BAM 130 (April 2017), p. 3. MDHHS is to use the DHS-3503, Verification Checklist (VCL), to request verification. *Id.* MDHHS is to allow the client 10 calendar days (or other time limit specified in policy) to provide the verification that is requested. *Id.*, p. 7. MDHHS is to send a negative action notice when:

- The client indicates refusal to provide a verification, or
- The time period given has elapsed and the client has not made a reasonable effort to provide it. *Id.*

MDHHS mailed Petitioner a VCL on April 24, 2019, requesting proof of Petitioner's stopped income with Employer. It was not disputed that MDHHS did not receive the proof from Petitioner.

Petitioner testified that he was homeless during the time his application was his pending. Petitioner's testimony was credible and consistent with seeking SER assistance for relocation. Petitioner also verified that he resided in a shelter since May 2, 2019 (Exhibit 1, p. 1). Petitioner's testimony may be relevant to needing assistance with verifying information. Clients have the primary responsibility in verifying information but MDHHS is to assist clients when help is needed and requested. BAM 130 (April 2017), p. 3. Petitioner's homelessness was compelling evidence of needing help in verifying stopped employment but Petitioner never asserted that help was requested. MDHHS testimony also credibly denied that Petitioner ever asked for help. Without a request for help, MDHHS was under no obligation to assist Petitioner.

MDHHS is to use available electronic methods (for example consolidated inquiry or SOLQ) to verify income. BEM 500 (July 2017), p. 14. When electronic verification is not available or inconsistent with client statement, the client has primary responsibility for obtaining verification. *Id.* MDHHS is to not deny assistance based solely on an employer or other source refusing to verify income. *Id.*

Petitioner credibly testified that he submitted a Verification of Employment to his former employer and that his employer failed to return the form to him or MDHHS. Petitioner contended that he should not be punished for Employer's failure to provide him with verification of job stoppage. Though Petitioner is correct that MDHHS cannot deny

assistance for a source's failure to verify income, MDHHS must be aware of the source's lack of cooperation to distinguish between a source's and a client's lack of cooperation. Again, the evidence did not establish any communication from Petitioner informing MDHHS of his inability in obtaining verification. MDHHS cannot assume that Employer was uncooperative simply because Petitioner failed to submit verification.

Petitioner presented a Notice of Determination dated May 22, 2019, which verified loss of employment with Employer. Exhibit 1, pp. 2-3. The document indeed verified loss of employment but is not relevant because it was not submitted to MDHHS before Petitioner requested a hearing on May 13, 2019. Petitioner's claim of an improper denial by MDHHS cannot be established from a document which had not existed at the time Petitioner requested a hearing.

Furthermore, MDHHS has no known electronic methods to verify a stoppage in employment within a few days or weeks of the stoppage. Thus, MDHHS could not have verified Petitioner's job loss with Employer from any known electronic method and/or data exchange.

Given the evidence, Petitioner failed to timely verify loss of employment with Employer. Thus, MDHHS properly denied Petitioner's application dated April 9, 2019. Petitioner's recourse is to reapply for FAP benefits.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that Petitioner withdrew his dispute of a denial of a SER application dated June 10, 2019. Concerning SER, Petitioner's hearing request is **DISMISSED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly denied Petitioner's application dated April 9, 2019, requesting FAP benefits. Concerning FAP benefits, the actions taken by MDHHS are **AFFIRMED**.

CG/jaf



Christian Gardocki

Administrative Law Judge
for Robert Gordon, Director
Department of Health and Human Services

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

DHHS

Montrece White
MDHHS-Macomb-20-Hearings

Petitioner

[REDACTED]
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