



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

ORLENE HAWKS  
DIRECTOR

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

Date Mailed: April 10, 2019  
MAHS Docket No.: 19-002113  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Ellen McLemore**

### **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 April 1, 2019, from Detroit, Michigan. Petitioner was present and represented himself. The Department of Health and Human Services (Department) was represented by Samantha Bishop, Eligibility Specialist.

### **ISSUE**

Did the Department properly deny 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 January 22, 2019, Petitioner submitted an application for FAP benefits under the Michigan Combined Application Project (MiCAP) (Exhibit A).
2. On January 30, 2019, the Department ran a consolidated income inquiry search and discovered that Petitioner had income in the fourth quarter of 2018 (Exhibit B).
3. On January 30, 2019, the Department sent Petitioner a DHS-38 Verification of Employment form (Exhibit C).
4. On February 20, 2019, the Department sent Petitioner a Notice of Case Action informing him that his application for FAP benefits was denied for his failure to verify employment/income verification (Exhibit D).

5. On February 25, 2019, Petitioner submitted a request for hearing disputing the Department's actions.

### **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.

In this case, Petitioner submitted a MiCAP application on January 22, 2019. MiCAP is a food assistance project approved by the Food and Nutrition Service (FNS). BEM 618 (January 2019), p. 1. MiCAP is a series of waivers that allows the Department to issue FAP benefits to Supplemental Security Income (SSI) individuals who qualify for the program. BEM 618, p. 1. The Department ran a consolidated income inquiry search and discovered that Petitioner was employed at [REDACTED] in the fourth quarter of 2018. The Department sent Petitioner a DHS-38 Verification of Employment form on January 30, 2019, to determine whether Petitioner was still employed at [REDACTED]. The form was due by February 11, 2019.

Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (April 2017), p. 1. Under the MiCAP program, an individual must receive SSI and have no other type of income. BEM 618, p. 1. To verify wages, salaries and commissions for all programs, the Department will send a DHS-38, Verification of Employment. BEM 501 (October 2018), p. 11. For FAP cases, the Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verification that is required. BAM 130, p. 7. The Department sends a negative action notice when: the client indicates a refusal to provide a verification OR the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130, p. 7.

The Department testified that Petitioner failed to return the Verification of Employment form. As a result, the Department sent Petitioner notice on February 20, 2019, informing him that his MiCAP application was denied.

Petitioner testified that he received the Verification of Employment form. Petitioner stated he was living in the [REDACTED] Michigan area but he had previously lived and worked in the [REDACTED] Michigan area. Petitioner's employment at [REDACTED]

was in [REDACTED] Michigan. Petitioner stated he could not take the form to his former employer to verify his loss of employment due to the distance. Petitioner testified that he contacted his worker to notify her of the difficulty in obtaining the verification requested and provided his new contact number. Petitioner stated he never received a call back from his worker.

The Department must assist clients who ask for help in completing forms, gathering verifications, and/or understanding written correspondence sent from the Department. BAM 105 (October 2016), p. 15. Petitioner gave credible testimony that he contacted the Department to request assistance in obtaining the employment verification and the Department did not respond. Therefore, the Department did not act in accordance with policy when it denied Petitioner's MiCAP application.

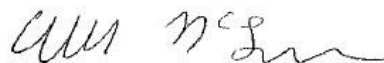
### **DECISION AND ORDER**

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 did not act in accordance with Department policy when it denied Petitioner's MiCAP application.

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 and reprocess Petitioner's January 22, 2019 MiCAP application;
2. If Petitioner is eligible for MiCAP benefits, issue supplements he is entitled to receive as of January 22, 2019, ongoing; and
3. Notify Petitioner of its decision in writing.



EM/jaf

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**Ellen McLemore**

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 Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS 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. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MAHS Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings  
Reconsideration/Rehearing Request  
P.O. Box 30639  
Lansing, Michigan 48909-8139

**DHHS**

Nicolette Vanhavel  
MDHHS-MiCAP-Hearings

**Petitioner**

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

BSC4  
M Holden  
D Sweeney