STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

GRETCHEN WHITMER
GOVERNOR

ORLENE HAWKS
DIRECTOR

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Date Mailed: May 21, 2019
MOAHR Docket No.: 19-003914
Agency No.: ████████
Petitioner: ████████████████

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 May 15, 2019, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Sabrina Hopkins, supervisor.

ISSUES

The first issue is whether Petitioner timely requested a hearing to dispute a termination of Family Independence Program (FIP) eligibility.

The second issue is whether MDHHS properly terminated Petitioner's Food Assistance Program (FAP) eligibility.

FINDINGS OF FACT

The administrative law judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. As of October 2018, Petitioner was an ongoing FIP and FAP recipient.

2. On October 3, 2019, MDHHS initiated termination of Petitioner's FIP eligibility, effective November 2018. Exhibit A, pp. 1-6.

3. As of January 2019, Petitioner was employed for two different employers. One of Petitioner's employers was ████████ (hereinafter, "Employer").

4. On January 11, 2019, MDHHS mailed Petitioner a Verification Checklist requesting verification of Petitioner's wages by January 22, 2019. Exhibit A, pp. 51-52.

5. On January 29, 2019, MDHHS terminated Petitioner's FAP eligibility, effective March 2019 due to Petitioner's failure to verify earned income.

6. As of April 15, 2019, Petitioner had not submitted to MDHHS verification of wages from Employer.

7. On April 15, 2019, Petitioner requested a hearing to dispute the terminations of FIP and FAP eligibility.

CONCLUSIONS OF LAW

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Department of Human Services) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101-.3131. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner's hearing request checked disputes of FIP and FAP eligibility. As of April 15, 2019 (the date MDHHS received Petitioner's hearing request), the last actions taken by MDHHS on Petitioner's FIP and FAP eligibility were denying an application Petitioner submitted to MDHHS on March 7, 2019. MDHHS reasonably interpreted Petitioner's hearing request as a dispute over the application denial and prepared for the hearing accordingly. Petitioner testified that she requested a hearing to dispute earlier closures of her FAP and FIP eligibility. Accepting Petitioner at her word, Petitioner's hearing request will be interpreted as a dispute of terminations of FIP and FAP eligibility.

A Notice of Case Action dated October 3, 2019, stated that Petitioner's FIP eligibility ended November 2018. The date of the notice raises an issue of hearing jurisdiction.

A client's request for hearing must be received in the MDHHS local office within 90 days of the date of the written notice of case action. BAM 600 (August 2018), p. 6. Generally, hearing requests must be submitted to MDHHS in writing. *Id.*, p. 2. Requests for Food Assistance Program (FAP) benefit hearings may be made orally. *Id.*

MDHHS received Petitioner's hearing request on April 15, 2019. The date MDHHS received Petitioner's hearing request was 194 days after MDHHS mailed Petitioner written notice of FIP termination. Petitioner testified that she had problems receiving mail at the time and did not receive notice. Petitioner's explanation did not clarify why

she could not have requested a hearing shortly after realizing that she did not receive FIP benefits in November 2018.

Given the evidence, Petitioner failed to timely request a hearing disputing a termination of FIP benefits. Due to Petitioner's untimely hearing request, there is not administrative hearing jurisdiction, and Petitioner's dispute over FIP eligibility 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 termination of FAP benefits. A Notice of Case Action dated January 29, 2019, stated that Petitioner's FAP eligibility would end March 2019 due to Petitioner's failure to verify earned income. Exhibit A, pp. 7-10. MDHHS testimony indicated that Petitioner specifically failed to verify income from Employer.

For FAP benefits, MDHHS generally counts gross wages.[1] BEM 501 (July 2017), p. 7. For non-child-support income, MDHHS uses past income to project a FAP group's income. BEM 505 (October 2017), p. 5.

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 dated January 11, 2019, giving Petitioner until January 22, 2019, to submit proof of wages. Petitioner submitted proof of wages from one of her two jobs but acknowledged that she did not submit proof of income from Employer.

Petitioner testified that she contacted Employer multiple times and was unable to obtain employment documentation to submit to MDHHS. Petitioner also testified that her other

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[1] Exceptions to using gross wages include the following: earned income tax credits, flexible benefits, striker earnings, student disregards, and census worker earnings. BEM 501 (July 2017), p. 7. None of these exceptions apply to the present case.

employer was much more cooperative and sent MDHHS the requested wage proofs. Petitioner further testified that she asked her specialist to assist with obtaining the needed documentation from Employer and that her specialist's failure to assist shifts blame to MDHHS concerning the absence of wage documentation from Employer.

MDHHS specialists are required to assist clients in obtaining verification when the client needs and requests help. BAM 130 (April 2017), p. 3. Consideration was given to finding that MDHHS failed to assist Petitioner, but such consideration was rejected. Petitioner testified that she received pay stubs from Employer and kept them in a large bag. Though Petitioner requested assistance from MDHHS, Petitioner did not need MDHHS' assistance. Petitioner possessed the documentation (pay stubs) from Employer that MDHHS requested but inexplicably failed to take the effort to submit it. Petitioner's possession of her pay stubs renders her request for assistance in obtaining verification to have been unnecessary.

The evidence established that MDHHS properly requested required verification of Petitioner's income from Employer. The evidence further established that Petitioner requested assistance from MDHHS in obtaining verification from Employer but Petitioner's request was unnecessary. The evidence lastly established that Petitioner failed to timely submit the required verification. Given the evidence, MDHHS properly terminated Petitioner's FAP eligibility.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that Petitioner failed to timely dispute a termination of FIP eligibility beginning November 2018. Concerning FIP benefits, 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 terminated Petitioner's FAP eligibility beginning March 2019. 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:

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

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DHHS

Richard Latimore
MDHHS-Wayne-57-Hearings

Petitioner

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B Sanborn
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