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GOVERNOR

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

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DIRECTOR

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Date Mailed: September 5, 2019
MOAHR Docket No.: 19-008236
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 August 29, 2019, from ██████████ Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Taleaka Jones, specialist, and Brittani Davis, specialist.

ISSUE

The 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 January 2019, Petitioner received FAP benefits as member of a group that included Petitioner's daughter, ██████████ (hereinafter, "Daughter").
2. On an unspecified date or dates from January 2019 through March 2019, Daughter received employment income.
3. As of June 2019, MDHHS budgeted Daughter's employment income as \$0.
4. On June 24, 2019, Petitioner submitted to MDHHS a Semi-Annual Contact Report (SACR). Petitioner did not submit income verification for Daughter as part of her verification submissions.

5. On June 25, 2019, MDHHS initiated termination of Petitioner's FAP eligibility, effective July 2019, due to Petitioner failing to verify Daughter's employment income from January 2019 through March 2019.
6. As of August 5, 2019, MDHHS failed to request from Petitioner verification of Daughter's employment income.
7. On August 5, 2019, Petitioner requested a hearing to dispute the termination of FAP benefits.
8. On 8/29/19, during an administrative hearing, MDHHS did not establish that Daughter received employment income as of June 2019.

CONCLUSIONS OF LAW

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 requested a hearing to dispute a termination of FAP benefits. A Notice of Case Action dated June 25, 2019, stated that Petitioner's FAP case would close beginning July 2019 due to Petitioner's failure to verify employment income for Daughter.

For FAP, MDHHS must verify employment income at application, at redetermination, upon the addition of a group member, and when policy otherwise requires it. BEM 501 (October 2018), p. 9. 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 testimony credibly indicated that while processing Petitioner's SACR in June 2019, MDHHS learned that Daughter received employment income during the first quarter of 2019 (January 2019 – March 2019). MDHHS initiated closure of Petitioner's FAP case because Petitioner did not submit proof of Daughter's income (or its stoppage) with the SACR. Generally, MDHHS cannot terminate a client's FAP benefits for a failure to verify income without first requesting proof of the income. As MDHHS did

not present any evidence of a verification request (i.e. a VCL) for Daughter's income, the closure of Petitioner's FAP eligibility is suspect. One potentially relevant exception is that MDHHS does not have to send a VCL in processing SACRs.

Bridges sends a Semi-Annual Contact Report (SACR) in the beginning of the fifth month for cases assigned a 12-month benefit period. BAM 210 (April 2019), pp. 10-11. A complete SACR must be submitted by groups with countable earnings and a 12-month benefit period. *Id.*, p. 11. A report is considered complete when all of the sections (including the signature section) of the SACR are answered completely **and** required verifications are returned by the client or client's authorized representative. *Id.* If an expense has changed and the client does not return proof of the expense, but all of the sections on the report are answered completely, specialists are to remove the expense from the appropriate data collection screen in Bridges before running eligibility determination and benefit calculation. *Id.*

The client's gross earned income from his/her most current budget is pre-filled on the SACR. *Id.*, p. 12. If the client's gross income has changed by more than \$100 from the pre-filled amount on the form, he/she must return verification of his/her past 30 days of earnings with his/her completed SACR. *Id.*

If the SACR is not logged in Bridges by the 10th day of the sixth month, Bridges will generate a DHS-1046A, Potential Food Assistance (FAP) Closure, to the client. *Id.*, p. 14. This reminder notice explains that the client must return the SACR and all required verifications by the last day of the month, or the case will close. *Id.* If the client fails to return a complete SACR by the last day of the sixth month then Bridges will automatically close the case. *Id.*

Under SACR policy, a client has an obligation to submit proof of income if there is an income change exceeding \$100. The evidence suggested that MDHHS was budgeting \$0 employment income for Daughter. Thus, Petitioner had no obligation to verify a change unless Daughter's income exceeded \$100/month. MDHHS presented evidence only that Daughter received employment income from January 2019 through March 2019; receipt of employment income in the first three months of the year is not verification of income during the sixth month of the year. Petitioner credibly testified that Daughter was no longer employed and had \$0 employment income at the time her SACR was submitted to MDHHS. It cannot be found with certainty that Daughter was not employed as of June 2019 but the evidence did not establish that she was employed. If Daughter was not employed, Petitioner had no obligation to verify Daughter's employment income with her SACR because Daughter's income had not changed by more than \$100.

Given the evidence, MDHHS failed to establish that Petitioner had an obligation to submit proof of Daughter's employment income with her SACR. MDHHS otherwise failed to establish that a proper verification request was made for Daughter's

employment income. Thus, the termination of Petitioner's FAP eligibility was improper. The improper termination entitles Petitioner to a processing of her SACR.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly terminated Petitioner's FAP eligibility. It is ordered that MDHHS begin to perform the following actions within 10 days of the date of mailing of this decision:

- (1) Redetermine Petitioner's FAP eligibility beginning July 2019 subject to the findings that MDHHS failed to request proper verification of Daughter's income and improperly required Petitioner to report a change in income of less than \$100 as part of a SACR; and
- (2) Issue a supplement of any benefits improperly not issued.

The actions taken by MDHHS are **REVERSED**.

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 (via electronic mail)

Denise McCoggle
MDHHS-Wayne-15-Hearings

BSC4
M Holden
D Sweeney

Petitioner (via first class mail)

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