



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: September 20, 2019
MOAHR Docket No.: 19-009119
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: John Markey

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 September 18, 2019 from Detroit, Michigan. Petitioner appeared and represented himself. The Department of Health and Human Services (Department) was represented by Duane Gore, Eligibility Specialist, and Gloria Thompson, Family Independence Manager. During the hearing, a 63-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-63.

ISSUE

Did the Department properly determine Petitioner's eligibility 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 ██████████ 2019, Petitioner submitted to the Department an application for FAP benefits for his household, which includes himself and four others. Exhibit A, pp. 7-15.
2. On July 10, 2019, the Department issued to Petitioner a Verification Checklist requesting information relevant to Petitioner's eligibility for FAP benefits. Petitioner was required to provide the requested verifications by July 22, 2019 in order to avoid the denial of his application. Exhibit A, pp. 16-17.

3. Petitioner did not submit anything to the Department by July 22, 2019.
4. On July 26, 2019, the Department issued to Petitioner a Notice of Case Action denying Petitioner's application for FAP benefits due to Petitioner's failure to return verifications related to his earnings and assets. Exhibit A, pp. 18-19.
5. On [REDACTED], 2019, Petitioner submitted to the Department another application for FAP benefits. Exhibit A, pp. 20-28.
6. On August 9, 2019, the Department issued to Petitioner another Verification Checklist requesting information relevant to Petitioner's eligibility for FAP benefits. Petitioner was required to provide the requested verifications by August 16, 2019 in order to avoid the denial of his application. Exhibit A, pp. 33-34.
7. On or before [REDACTED] 2019, Petitioner submitted to the Department the information requested. Exhibit A, pp. 29-32.
8. On August 9, 2019, the Department issued to Petitioner a Notice of Case Action informing Petitioner that his FAP application was denied based on the Department's determination that Petitioner's household income exceeded the limit for program eligibility. Exhibit A, pp. 35-36.
9. On [REDACTED] 2019, Petitioner submitted to the Department a request for hearing objecting to the Department's denials of his FAP applications.

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 objects to the Department's denials of his [REDACTED], 2019 and [REDACTED], 2019 applications for FAP benefits for his household. The first application was denied based on the Department's determination that Petitioner failed to timely provide verifications requested on a July 10, 2019 Verification Checklist. The second application was denied based on the Department's determination that Petitioner's household income exceeded the limit for program eligibility.

JULY 26, 2019 NOTICE OF CASE ACTION

Petitioner's [REDACTED], 2019 application was denied via a July 26, 2019 Notice of Case Action. The reason given for the denial was that the Department determined that Petitioner did not provide verifications related to Petitioner's income and assets, which were requested via a July 10, 2019 Verification Checklist.

Verification of relevant, eligibility-related information is required at application. BAM 130 (April 2017), p. 1. Household income information is highly relevant in determining eligibility for FAP. BEM 500 (July 2017). To request verification of information, the Department sends a VCL which tells the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. 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. Verifications are considered to be timely if received by the date they are due. BAM 130, p. 7. The Department sends a negative action notice when: (1) the client indicates a refusal to provide a verification OR (2) the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130, p. 7.

When Petitioner applied for FAP benefits, he indicated that he had income from his employment with Quality Metal Craft. Because of this report, the Department followed Department policy by requesting verifications related to Petitioner's income. The Department clearly informed Petitioner of the information it needed, the deadline to provide the information, and the consequences for failing to do so. Despite being put on notice of what was needed, when, and the consequences for not doing so, Petitioner provided nothing to the Department by the deadline. Because the deadline passed and Petitioner had not made a reasonable effort to provide the required verifications, the Department properly denied Petitioner's July 5, 2019 application.

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 acted in accordance with Department policy when it denied Petitioner's [REDACTED] 2019 application for FAP benefits.

AUGUST 9, 2019 NOTICE OF CASE ACTION

Petitioner's [REDACTED] 2019 application was denied via an August 9, 2019 Notice of Case Action. The reason given for the denial was that the Department determined that Petitioner's gross income exceeded the limit for program eligibility for a household of five. The Department based that determination on an analysis of Petitioner's July 2019 earnings with [REDACTED]. Petitioner received four paychecks during that month, each covering one week. The gross income total of those four paychecks came to \$2,689.52. To arrive at a monthly income figure, that total must be divided by four then multiplied by 4.3. BEM 505 (October 2017), p. 8. After applying the foregoing formula, Petitioner's monthly income, based on the 30 days prior to application, was \$2,891.23.

The gross income limit for a group of five is \$3,188. RFT 250 (October 2018), p. 1. Thus, Petitioner's household income did not exceed the gross income limit. Additionally, if one was to reduce the gross income by the standard deduction of \$198 and the applicable excess shelter deduction, it would surely result in Petitioner's net income being reduced below the net income limit of \$2,452. RFT 250, p. 1; RFT 255 (October 2018), p. 1.

Because the Department found that Petitioner's gross income exceeded the limit for program eligibility, the Department must be reversed. Petitioner's gross income does not exceed the limit.

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 August 8, 2019 application for FAP benefits


DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to the July 26, 2019 Notice of Case Action and **REVERSED IN PART** with respect to the August 9, 2019 Notice of Case Action.

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. Reprocess Petitioner's [REDACTED] 2019 application for FAP benefits;
2. If any eligibility-related factors remain unclear, inconsistent, contradictory, or incomplete, follow Department policy regarding verifications;
3. Determine Petitioner's eligibility from the date of application, ongoing;
4. If Petitioner is eligible for additional benefits, promptly issue a supplement; and
5. Notify Petitioner in writing of its decisions.

JM/cg



John Markey
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

Via Email:

MDHHS-Wayne-17-Hearings
M. Holden
D. Sweeney
BSC4- Hearing Decisions
MOAHR

Petitioner – Via First-Class Mail:

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