



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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

Date Mailed: October 14, 2020
MOAHR Docket No.: 20-005709
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 hearing was held on October 7, 2020, via telephone conference. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Deandra Broaden, specialist. Mahjabin Haque, Petitioner's daughter, participated as a Bengali-English translator

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 [REDACTED], 2020, Petitioner submitted to MDHHS an application requesting FAP benefits. Petitioner reported ongoing employment income. Exhibit A, pp. 7-14.
2. On July 28, 2020, MDHHS mailed Petitioner a Verification Checklist requesting 30 days of employment income documents. Petitioner's due date to return the documents was August 7, 2020.
3. On August 11, 2020, MDHHS received Petitioner's employment income verifications.

4. On [REDACTED], 2020, MDHHS denied Petitioner's application for FAP benefits due to Petitioner failing to timely return income verifications.
5. On August 24, 2020, Petitioner requested a hearing to dispute the denial of FAP benefits.
6. As of October 8, 2020, MDHHS had not subsequently processed Petitioner's application.

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 denial of FAP benefits. Exhibit A, pp. 4-5. A Notice of Case Action dated August 11, 2020, stated that Petitioner's application for FAP benefits was denied due to a failure to verify employment income.¹ Exhibit A, pp. 18-22.

Wages are the pay an employee receives from another individual organization or S-Corp/LLC. BEM 501 (October 2019) p. 6. For FAP, wages must be verified at application, program add, member add, redetermination, or whenever otherwise required by policy. *Id.*, pp. 9-10

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.*

¹ The denial notice listed six different reasons for the application denial; the reasons included a person no longer in the household, an ineligible student, Michigan non-residency for a reported household member, and U.S. non-residency for a reported household member. During the hearing, the MDHHS specialist testified that the only valid reason for denial was untimely verification submission. Thus, the other five reasons for denial were not considered in the analysis.

MDHHS sent Petitioner a VCL on July 28, 2020, requesting verification of the last 30 days of Petitioner's employment income. Exhibit A, pp. 15-17. Petitioner was given until August 7, 2020 to return the verification. Petitioner returned requested verification on August 11, 2020. Petitioner testified that she sent the requested information on time. Petitioner should be aware that the VCL due date is the deadline for MDHHS to receive the documents, not the deadline for a client to mail documents. Given the evidence, MDHHS received Petitioner's income verifications on August 11, 2020. Though Petitioner untimely submitted employment income verification, MDHHS failed to subsequently process Petitioner's submission.

MDHHS policy authorizes "subsequent processing" when a client completes the application process on or before the 30th day after the application date. BAM 115 (October 2019) p. 25. Under these circumstances, MDHHS is to reregister the application using the original application date. *Id.* Additionally, MDHHS is to determine whether to prorate benefits according to initial benefits policy, if the client is found eligible. *Id.*

Petitioner's employment verification submission on August 11, 2020 occurred within 30 days of her application date of July 20, 2020. By completing the application process within 30 days of her application date, MDHHS should have reregistered and processed Petitioner's application. Instead, MDHHS ignored Petitioner's submission under the belief that Petitioner had to reapply for benefits. MDHHS's failure to subsequently process Petitioner's application entitles Petitioner to registration and reprocessing of her application.

It should also be noted that MDHHS received Petitioner's verifications on the same date that it denied Petitioner's application. Though not explicitly stated within policy, a client's submission after a VCL due date but before MDHHS denies the application, has traditionally been treated as a timely submission. MDHHS testimony acknowledged that it could not state that denial of Petitioner's application occurred before Petitioner's submission on August 11, 2020. Given the evidence, Petitioner's submission is found to have occurred before the denial of her application. Thus, the evidence justified a second basis for reversing the application denial.


DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly denied Petitioner's application for FAP benefits. It is ordered that MDHHS commence the following actions within 10 days of the date of mailing of this decision:

- (1) Reregister Petitioner's application dated [REDACTED], 2020 requesting FAP benefits;
and
- (2) Process Petitioner's application subject to the findings that Petitioner submitted employment income verifications to MDHHS before application denial and that MDHHS failed to "subsequently process" Petitioner's application.

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

CG/tm



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

Via Email:

MDHHS-Macomb-20-Hearings
M. Holden
D. Sweeney
BSC4
MOAHR

Petitioner – Via First-Class Mail:

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