



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]

Date Mailed: October 28, 2020  
MOAHR Docket No.: 20-006069  
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 22, 2020, via telephone conference line. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Yvonne Jasper, manager.

### **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 July 2020, Petitioner was an ongoing FAP recipient who previously reported employment income to MDHHS.
2. On July 1, 2020, MDHHS mailed Petitioner a Semi-Annual Contact Report (SACR) with a due date of August 1, 2020.
3. On August 10, 2020 MDHHS mailed Petitioner a Notice of Food Assistance (FAP) Closure form stating that Petitioner did not return a completed SACR and/or required information and that his case would close after August 2020.
4. Beginning September 1, 2020, Petitioner's FAP eligibility ended.

5. As of September 1, 2020, Petitioner had not submitted a SACR to MDHHS.
6. On [REDACTED], 2020, Petitioner verbally requested a hearing to dispute the termination of FAP benefits.<sup>1</sup>

### **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 verbally requested a hearing to dispute a termination of FAP benefits. A Notice of Food Assistance (FAP) Closure form dated August 10, 2020, stated that Petitioner's FAP eligibility would end after August 2020 due to Petitioner's failure to return a completed SACR. Exhibit A, pp. 11-12.

MDHHS sends a 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 MDHHS does not log the SACR by the 10<sup>th</sup> day of the sixth month, a Potential Food Assistance (FAP) Closure is sent 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. MDHHS will automatically close the case. *Id.*

MDHHS mailed Petitioner a SACR on July 1, 2020. Exhibit A, pp. 7-10. The SACR stated that Petitioner had until August 1, 2020 to return the form to MDHHS or that FAP eligibility could end. The primary dispute was whether Petitioner returned the form to MDHHS before the end of August 2020.

Petitioner testified that he remembers returning and completing an SACR to MDHHS in August 2020, though he could not remember the precise date. Petitioner testified that he remembered taking a photo with his phone of the drop box when he submitted the SACR. After checking his phone, Petitioner realized that he took a photo of his specialist's supervisor's phone number, which was posted on the entrance door, and this happened before he returned the SACR. Petitioner also testified that he was

---

<sup>1</sup> Clients may verbally request hearing to dispute FAP eligibility (see BAM 600).

unsurprised that MDHHS closed his case because they wrongfully do so seemingly every six months. As an example, Petitioner testified that MDHHS lost his Redetermination form when his FAP case was reviewed in February 2020.

MDHHS contended that Petitioner failed to return the SACR before the end of August 2020. An MDHHS manager testified that her office has workers would have scanned and uploaded Petitioner's SACR to Petitioner's electronic case file (ECF) had he submitted it.<sup>2</sup> After refreshing her memory with case notes, she also testified that she did not recall MDHHS losing Petitioner's Redetermination form in February 2020.

The most compelling evidence of whether Petitioner returned the SACR was the MDHHS's manager testimony that she allowed Petitioner multiple weeks after August 2020 to return a SACR. Despite the unofficial extension, Petitioner admitted that he had not returned the SACR to MDHHS. Petitioner placed blame on MDHHS for his failure, testifying that he cannot access a SACR online and that MDHHS should mail him a SACR. MDHHS responded that Petitioner should have requested a SACR in the multiple communications between Petitioner and MDHHS in August 2020 and September 2020. Petitioner's undisputed failure to return a completed SACR to MDHHS is consistent with failing to timely do so. Given the evidence, Petitioner did not return a SACR to MDHHS before the end of August 2020.

Petitioner contended that even if he failed to return the SACR, the United States Department of Agriculture (USDA) prohibited MDHHS from closing his case. To support his contention, Petitioner provided a weblink to the USDA website.<sup>3</sup> Petitioner cited the USDA allowance of state agencies to waive interview requirements.<sup>4</sup> An allowance to waive interview requirements does not excuse a client's failure to timely return required documentation. Thus, MDHHS did not improperly terminate Petitioner's FAP eligibility based on USDA policy.

Petitioner lastly contended that he should have continued receiving FAP benefits pending the outcome of the hearing because of his timely hearing request. A timely hearing request is a request received by MDHHS within 10 days of the date the notice of case action was issued. BAM 600 (July 2019) p. 25. Generally, upon receipt of a timely hearing request, MDHHS is to reinstate program benefits to the former level for a hearing request filed because of a negative action. *Id.* Benefits are not to be extended when the hearing request disputes a redetermination of benefits. *Id.*

In the present case, Petitioner was not entitled to continue receiving benefits because his eligibility ended related to a redetermination of FAP benefits. Further, Petitioner's hearing request was not timely because it was not submitted within 10 days of issuance of a notice of case action.

---

<sup>2</sup> An ECF contains all written submissions from a client. BAM 300 (January 2020) p. 1.

<sup>3</sup> <https://www.fns.usda.gov/disaster/pandemic/covid-19/michigan>

<sup>4</sup> <https://www.fns.usda.gov/snap/adjusting-interview-requirements-covid-19>

Given the evidence, MDHHS properly terminated Petitioner's FAP eligibility beginning September 2020. As discussed during the hearing, Petitioner is encouraged to reapply for FAP benefits if assistance is still needed.

**DECISION AND ORDER**

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly terminated Petitioner's FAP benefit eligibility beginning September 2020. The actions taken by MDHHS are **AFFIRMED**.

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-Wayne-17-Hearings  
M. Holden  
D. Sweeney  
BSC4  
MOAHR

**Petitioner – Via First-Class Mail:**

██████████  
██████████  
██████████