



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: February 19, 2021  
MOAHR Docket No.: 20-007740  
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 via telephone conference on February 10, 2021. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Cristina Tanzini, hearing facilitator.

### **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 March 2020, Petitioner was an ongoing recipient of FAP benefits with a benefit period certified through March 2020.
2. On an unspecified date, MDHHS extended Petitioner's FAP eligibility through September 2020.
3. As of August 2020, Petitioner was an ongoing FAP recipient as a member of a group that included [REDACTED] Petitioner's daughter (hereinafter, "Daughter").
4. On August 21, 2020, MDHHS mailed Petitioner a Verification Checklist requesting proof of Daughter's income from [REDACTED] (hereinafter, "Employer1") and [REDACTED] (hereinafter, "Employer2").

5. From August 21, 2020, through September 18, 2020, Petitioner left at least one voicemail to MDHHS stating that she was unable to verify employment income from Employer1, but MDHHS could access the information online or send a fax to corporate headquarters. Petitioner also informed MDHHS that she left a Verification of Employment with Employer2.
6. On September 18, 2020, MDHHS mailed Petitioner a notice of FAP closure beginning October 2020.
7. On [REDACTED], 2020, Petitioner requested a hearing to dispute the termination of FAP benefits.

### **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 on [REDACTED] 2020, to dispute a termination of FAP eligibility beginning October 2020.<sup>1</sup> Exhibit A, pp. 3-4. A Notice of Case Action dated September 18, 2020, stated that MDHHS terminated Petitioner's FAP eligibility due to Petitioner's failure to verify employment income. Exhibit A, pp. 13-17. MDHHS credibly testified that the employment income verifications were required as part of an extended redetermination of Petitioner's FAP eligibility.

For FAP benefits, the redetermination process begins when the client files redetermination documents. BAM 210 (January 2018), p. 3. The DHS-3503, Verification Checklist, should be sent after the redetermination interview for any missing verifications allowing 10 days for their return. *Id.*, p. 17. Verifications must be provided by the end of the current benefit period or within 10 days after they are requested, whichever allows more time. *Id.* Benefits stop at the end of the benefit period unless a redetermination is completed and a new benefit period is certified. *Id.*, p. 3.

MDHHS properly requested verification of Daughter's income from Employer1 and Employer2 by sending a VCL on August 21, 2020. It was not disputed that Petitioner did not submit verification of Daughter's income to MDHHS before October 2020.<sup>2</sup>

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<sup>1</sup> Petitioner also verbally requested a hearing on [REDACTED] 2020 after MDHHS did not initially process Petitioner's earlier hearing request.

<sup>2</sup> It was not disputed that Petitioner submitted wage verification for one of Daughter's jobs on August 7, 2020. MDHHS rejected the documents as acceptable verification because the document did not list an employee name.

Concerning income from Employer1, Petitioner testified that she went to Employer1 asking for income verification for MDHHS, and through locked doors, was told that MDHHS could verify the information online or through corporate headquarters by sending a fax. Concerning income from Employer2, Petitioner testified that she dropped-off a Verification of Employment to Employer2 and expected Employer2 to forward the document to MDHHS. Petitioner further testified that she called MDHHS on several occasions, including leaving voicemails, to report her attempts to verify income.

The client must obtain required verification, but the local office must assist if the client needs and requests help. *Id.* If neither the client nor the local office can obtain verification despite a reasonable effort, MDHHS is to use the best available information. *Id.* If no evidence is available, specialists are to use their best judgment. *Id.*

MDHHS could not rebut Petitioner's testimony with non-hearsay evidence. Instead, MDHHS contended that Petitioner likely did not request help. MDHHS testimony indicated that if Petitioner requested help with verification, the request would have been documented on comments associated with Petitioner's case. Exhibit A, pp. 21-28. MDHHS contended that Petitioner did not request help because a call from Petitioner requesting help was not documented. Despite MDHHS's contention, there was evidence suggesting that Petitioner did request assistance in verifying income.

On August 21, 2020, MDHHS documented that a Verification of Employment was sent to Employer2. MDHHS requesting income verification of Employer2 is consistent with Petitioner reporting that she was unable to obtain verification from Employer2.

Also, Petitioner requested a hearing within 11 days after MDHHS mailed notice of termination. The quick response by Petitioner renders her request to be a "timely hearing request". Timely hearing requests must be received within 10 days of written notice (longer when the 10<sup>th</sup> day falls on a non-business day) and allow clients to receive benefits at the current level, pending a hearing. BAM 600 (January 2020) p. 25. A timely hearing request is not direct evidence of Petitioner's communications to MDHHS but is consistent with a responsive client.

Petitioner's testimony concerning her efforts to verify income and to contact MDHHS were not corroborated but were at least a firsthand account. Given the evidence, Petitioner attempted to verify Daughter's income and reported to MDHHS a need and request for help. MDHHS's failure to rely on the best income available information and/or attempt to help Petitioner renders the termination due to lack of verification to be improper.

**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 October 2020 subject to the finding that Petitioner requested and needed help in verifying Daughter's income from Employer1 and Employer2; and
- (2) Initiate a supplement of benefits, if any, improperly not issued.

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

CG/tm



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**Christian Gardocki**

Administrative Law Judge  
for Elizabeth Hertel, 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-36-Hearings  
M. Holden  
D. Sweeney  
BSC4  
MOAHR

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

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