



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: March 10, 2021  
MOAHR Docket No.: 21-000085  
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 scheduled via telephone conference line on March 4, 2021. The hearing was held on the scheduled hearing date and at least 30 minutes after the scheduled hearing time. Petitioner participated and was unrepresented. [REDACTED] Petitioner's friend, participated as an Arabic-English translator. The Michigan Department of Health and Human Services (MDHHS) did not participate in the hearing.

### **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 December 2020, Petitioner was an ongoing recipient of FAP benefits with a benefit period certified through December 2020.
2. On December 30, 2020, MDHHS mailed Petitioner a notice of FAP closure beginning January 2021 due to Petitioner's alleged failure to verify self-employment income.
3. On [REDACTED], 2021, Petitioner requested a hearing to dispute the termination of FAP benefits.

4. On March 4, 2021, during an administrative hearing, MDHHS did not participate to establish that a Verification Checklist was sent requesting verification of Petitioner's income or that Petitioner failed to timely return income verification.

### **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 eligibility. Petitioner's testimony acknowledged that MDHHS sent a Notice of Case Action dated December 30, 2020, stating that Petitioner's FAP eligibility would terminate January 2021 due to Petitioner failing to verify self-employment income. Petitioner's testimony also acknowledged that the termination occurred as part of the benefit redetermination process.

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 did not participate in the hearing. Thus, no evidence was presented establishing that MDHHS mailed Petitioner a Verification Checklist requesting self-employment income verification from Petitioner. Further, Petitioner testified, without rebuttal, that income verification was returned before the end of the benefit period.<sup>1</sup>

Given the limited evidence, MDHHS failed to establish that Petitioner's self-employment income was properly requested or that Petitioner failed to timely verify self-employment income. As a remedy, Petitioner is entitled to a reprocessing of FAP eligibility from January 2021.

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<sup>1</sup> Petitioner testified that MDHHS told him that his income documents were invalid because they verified an income that paled in comparison to his larger reported expenses. If this was a consideration of MDHHS, it will not be considered here due to MDHHS's lack of hearing participation.


**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) Reprocess Petitioner's FAP eligibility beginning January 2021 subject to the findings that MDHHS failed to establish that Petitioner's income was properly requested or untimely verified; and
- (2) Initiate notice and a supplement for any benefits 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-20-Hearings  
M. Holden  
D. Sweeney  
BSC4  
MOAHR

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

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