



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 26, 2021
MOAHR Docket No.: 21-000633
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 line on March 17, 2021. Petitioner participated and was unrepresented. [REDACTED] of [REDACTED] participated as an English-Arabic translator. The Michigan Department of Health and Human Services (MDHHS) was represented by Princess Ogundipe, specialist.

ISSUE

The issue is whether MDHHS properly denied Petitioner's application requesting 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 applied for FAP benefits and reported a household with a wife and three children.
2. On January 15, 2021, MDHHS mailed Petitioner a Verification Checklist (VCL) requesting by January 25, 2021, verification of the immigration status for Petitioner's wife and three children. An I-94 was listed as an acceptable verification.
3. On an unspecified date before January 25, 2021, Petitioner submitted to MDHHS an I-94 for himself, his wife, and 3 children. Each I-94 did not include a stamp reading "Processed for I-551".

4. On January 25, 2021, MDHHS denied Petitioner's application for FAP benefits due to a failure to verify immigration status.
5. On [REDACTED] 2021, Petitioner requested a hearing to dispute the denial of FAP benefits.

CONCLUSIONS OF LAW

The Food Assistance Program [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. MDHHS 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. 3-5. A Notice of Case Action dated January 25, 2021, stated that Petitioner's application was denied due to a failure to verify information. MDHHS credibly testified that Petitioner specifically failed to verify the immigration status for himself, his wife, and his three children.

MDHHS is to determine the alien status of each non-citizen requesting benefits at application. BEM 225 (October 2019) p. 1. The alien status of each non-citizen requesting benefits must be verified. *Id.*, p. 20.

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 send a 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.*

MDHHS sent Petitioner a VCL on January 15, 2021 requesting verification of immigration status for Petitioner's wife and three children.¹ The VCL gave Petitioner until January 25, 2021 to return verification.² Examples of acceptable verifications cited on the VCL included an I-94. MDHHS testimony acknowledged that Petitioner returned an I-94 for each person in his household. MDHHS did not allege that Petitioner's

¹ MDHHS did not explain why verification of Petitioner's immigration status was not requested.

² MDHHS ultimately denied Petitioner's application on the same date that verifications were due. As discussed above, MDHHS cannot deny an application until the "time period given has elapsed". Thus, the denial of Petitioner's application was premature because MDHHS did not deny Petitioner's application after the due date for verifications.

submission was untimely. Thus, MDHHS appeared to incorrectly deny Petitioner's application.

During the hearing, MDHHS claimed that Petitioner's application was properly denied because an acceptable immigration status was not verified because submitted I-94s did not include a stamp reading "Processed for I-551".³ MDHHS may be correct that an I-94 must be stamped as being processed for a green card to verify an acceptable immigration status.⁴ Whether Petitioner and his family have an acceptable immigration status is irrelevant to the analysis because the written basis for denial was a failure to verify information. Notably, the VCL sent to Petitioner only requested I-94s and did not further require that they include a processing stamp. MDHHS testimony contended that Petitioner was verbally told to submit a green card instead of an I-94 with a process stamp, thereby implying that the verbal instruction satisfies MDHHS's procedural requirements. MDHHS policy does not allow for verbal requests for verification. As discussed above, MDHHS must request verification by VCL.

Given the evidence, Petitioner complied with the VCL dated January 15, 2021. Thus, a denial of FAP benefits should not have followed. As a remedy, Petitioner is entitled to reprocessing of his application requesting FAP benefits.

³ Petitioner's testimony acknowledged that he did not apply for an I-551 (i.e., a green card) for himself or family members.

⁴ See BAM 225 for MDHHS policy for acceptable verification of immigration status.

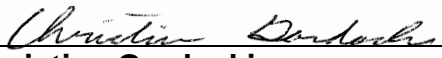
DECISION AND ORDER

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) Re-register Petitioner's application for FAP benefits dated [REDACTED], 2020;
and
- (2) Reprocess Petitioner's application subject to the finding that Petitioner complied with a VCL dated January 15, 2021.

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

CG/tm



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-Wayne-18-Hearings
M. Holden
D. Sweeney
BSC4
MOAHR

Petitioner – Via First-Class Mail:

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