



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]  
[REDACTED]

Date Mailed: May 19, 2021  
MOAHR Docket No.: 21-001843  
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 May 17, 2021. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Gloria Moon, specialist, and Shanisha Harmon, lead specialist.

### **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] 2021, Petitioner applied for FAP benefits and reported income from friends/family. Petitioner also reported that he was disabled and had medical expenses.
2. On March 10, 2021, MDHHS mailed Petitioner a Verification Checklist (VCL) requesting proof of Petitioner's unearned income, disability, and medical expenses. Petitioner's stated due date to return verification was March 22, 2021.
3. On March 26, 2021, MDHHS denied Petitioner's application due to Petitioner's failure to verify unearned income.

4. On [REDACTED], 2021, Petitioner requested a hearing to dispute the denial of FAP benefits. Additionally, MDHHS, for the first time, received Petitioner's proof of unearned income.

### **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 the denial of an application requesting FAP benefits. MDHHS testified, without rebuttal, that Petitioner applied for FAP benefits on [REDACTED] 2021. A Notice of Case Action dated March 26, 2021, stated that Petitioner's application was denied due to a failure to verify unearned income. Exhibit A, pp. 7-10.

A donation to an individual by family or friends is the individual's unearned income. BEM 503 (January 2021) p. 11. If the individual making the donation is not a member of the client's benefit group, the donation is counted as income. *Id.*

For FAP benefits, MDHHS is to verify income at application. BEM 505 (October 2017) p. 14. 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 at least 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.*

It was not disputed that Petitioner received some type of income from friends and/or family members.<sup>1</sup> MDHHS sent Petitioner a VCL on March 10, 2021, specifically requesting verification of Petitioner's income; proof of disability and medical expenses were also requested. Exhibit A, pp. 4-6. The stated due date was March 22, 2021. MDHHS contended that denial of Petitioner's application was proper because verification of income was not received by the VCL due date or the date of closure notice.

---

<sup>1</sup> There was some question as to whether Petitioner received unearned income as a loan or a gift. If Petitioner received money as a loan, the money would not be countable. It is appropriate that MDHHS still verify that the income was a loan because only proceeds from a "bona fide loan" is excluded. BEM 503 (January 2021) p. 25. In other words, MDHHS would have been authorized to request verification of loan proceeds to ensure that it derived from a bona fide loan.

Petitioner testified that he timely returned proof of income to MDHHS via fax on March 26, 2021. A fax confirmation verified that three pages (and a cover page) were sent to MDHHS on March 26, 2021. Exhibit A, p. 11. Petitioner testified that he believed the three pages concerned his income. MDHHS credibly responded that a check of Petitioner's electronic case file (ECF) verified that it received three pages related to Petitioner's alleged disability on March 26, 2021.<sup>2</sup> Exhibit A, pp. 16-18.

Petitioner also testified that he mailed to MDHHS in March 2021 a packet which included his income. In response, MDHHS again checked Petitioner's ECF. MDHHS credibly testified that income verifications from Petitioner were not received until Petitioner submitted them with his hearing request on [REDACTED] 2021. MDHHS also testified that unearned income documentation was again received on April 11, 2021. Presumably, the documentation received by MDHHS on April 11, 2021, was the packet referenced by Petitioner's testimony as mailed in March 2021. Assuming Petitioner mailed income verifications in March 2021, he cannot be credited with complying with verification requirements until the date that MDHHS received the documents.

Given the evidence, Petitioner failed to timely verify unearned income. Thus, MDHHS properly denied Petitioner's application for FAP benefits dated [REDACTED] 2021.

Though the evidence established a proper denial of FAP benefits, Petitioner is not without recourse. As discussed above, MDHHS received verification of Petitioner's unearned income on April 8, 2021. Exhibit A, pp. 12-15. Petitioner's submission does not justify a remedy in the present case because an improper action/inaction as of Petitioner's hearing request had not arisen. Petitioner's submission does impact whether he was entitled to "subsequent processing". "Subsequent processing" allows for processing even when verifications are untimely submitted. If a client completes the application process within 30 days of the application date, the client is entitled to processing from the application date. BAM 115 (January 2021) p. 25. If the client completes the application process between the 31<sup>st</sup> and 60<sup>th</sup> days following application, MDHHS is to process benefits from the date of compliance. *Id.* After Petitioner requested a hearing, MDHHS appears to have incorrectly failed to subsequently process Petitioner's application. Though the matter cannot be addressed in the present analysis, Petitioner can again request a hearing if MDHHS fails to subsequently process his application.


---

<sup>2</sup> An ECF is a database which stores and lists all documents received from a client. BAM 300 (January 2020) p. 1.

**DECISION AND ORDER**

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly denied Petitioner's application dated [REDACTED] 2021, due to Petitioner's failure to timely verify unearned income. The actions taken by MDHHS are **AFFIRMED**.

CG/tm



---

**Christian Gardocki**  
Administrative Law Judge

