



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

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DIRECTOR

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Date Mailed: July 9, 2021
MOAHR Docket No.: 21-002862
Agency No.: ██████████
Petitioner: ██████████

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 July 6, 2021. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Corlette Brown, hearings facilitator.

ISSUE

The issue is whether MDHHS properly determined 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. On ██████████ 2021, Petitioner applied for FAP benefits and reported a household with her husband and five children. Unemployment compensation benefits (UCB) for Petitioner's spouse was reported.
2. On April 19, 2021, MDHHS mailed Petitioner a Verification Checklist (VCL) requesting unknown unearned income.
3. On an unspecified date, MDHHS verified Petitioner's spouse's UCB income.
4. On May 18, 2021, MDHHS denied Petitioner's application for FAP benefits due to Petitioner's failure to verify unknown unearned income.

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 the denial of an application requesting FAP benefits. Exhibit A, p. 3. A Notice of Case Action dated May 14, 2021, stated that Petitioner's application was denied due to a failure to verify "unknown unearned income".¹ Exhibit A, pp. 11-15

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.*

MDHHS mailed Petitioner a VCL on April 19, 2021, requesting proof of unknown unearned income. Exhibit A, pp. 8-10. During the hearing, MDHHS could not state what unknown unearned income verification was requested from Petitioner. UCB is an unearned income; Petitioner's application reported that her spouse received UCB. MDHHS acknowledged that UCB was verified; thus, UCB could not be the unknown unearned income that Petitioner allegedly failed to verify. The VCL also requested self-employment income for Petitioner. Self-employment is not an unearned income; thus, self-employment could not have been the basis for denial.

Given the evidence, MDHHS failed to establish that Petitioner failed to verify unearned income. Thus, the denial of FAP benefits was improper. As a remedy, Petitioner is entitled to reprocessing of her FAP application.

¹ MDHHS's hearing summary and presented exhibits suggested that denial was also based on Petitioner's failure to verify a social security number for a child. Exhibit A, pp. 1-2 and 4-7. This alleged basis for denial cannot be considered because it was not stated as a denial reason on the Notice of Case Action.


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) Reregister Petitioner's FAP application dated [REDACTED], 2021; and
- (2) Reprocess Petitioner's application, including issuance of notice and any supplements, in accordance with policy.

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

CG/tm



Christian Gardocki
Administrative Law Judge

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-31-Hearings
M. Holden
D. Sweeney
BSC4
MOAHR

Petitioner – Via First-Class Mail:

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