



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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██████████, MI ██████████

Date Mailed: August 6, 2021
MOAHR Docket No.: 21-003250
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 August 2, 2021. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Linda Perkins, specialist

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. In February 2021, Petitioner stopped receiving employment income from ██████████ (hereinafter, "Employer").
2. As of May 2021, Petitioner was an ongoing FAP recipient with a FAP benefit period certified through May 2021 and budgeted employment income.
3. On an unspecified date, Petitioner timely returned to MDHHS a Semi-Annual Contact Report.
4. On May 4, 2021, MDHHS mailed Petitioner a Verification Checklist (VCL) requesting, among other items, proof of Petitioner's income in the last 30 days from Employer.

5. On May 17, 2021, MDHHS terminated Petitioner's FAP eligibility beginning June 2021 due to Petitioner's failure to submit 30 days of income from Employer.
6. On [REDACTED], 2021, Petitioner requested a hearing to dispute the termination of FAP eligibility.

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 termination of FAP benefits. Exhibit A, pp. 3-4. A Notice of Case Action dated May 17, 2021, stated that Petitioner's FAP eligibility would end June 2021 due to missing check stubs.¹ Exhibit A, pp. 8-11. MDHHS testimony clarified that the missing check stubs concerned Petitioner's employment with Employer as part of a recently submitted SACR.

MDHHS must periodically redetermine an individual's eligibility for active programs. BAM 210 (January 2021) p. 1. The redetermination process includes thorough review of all eligibility factors. *Id.*

A complete SACR, must be submitted by groups with countable earnings and a 12-month benefit period. *Id.*, p. 11. The SACR is mailed to clients during the 5th month of the benefit period. *Id.* An SACR is considered complete when all of the sections are answered completely and required verifications are returned. *Id.*, p. 12. If the client's gross income has changed by more than \$100 from the pre-filled amount on the form, the client must return verification of the past 30 days of earnings with the completed.

MDHHS contended that Petitioner's FAP eligibility properly ended due to her failure to verify income from Employer. For purposes of this decision, it will be assumed that Petitioner was required to verify income because of a change in income of more than \$[REDACTED] from the amount listed on the SACR.² When clients report such a change, the past 30 days of income must be verified so that MDHHS can project the earnings in the client's future FAP eligibility.

In the present case, MDHHS requested income verification from Petitioner's employment with Employer. Petitioner testified, without rebuttal, that her job with

¹ The notice also stated that Petitioner failed to verify loss of employment and an unspecified earned income payment. MDHHS testimony acknowledged that a failure to verify loss of employment and/or earned income payments were not the basis for closure.

² The amount of income on the SACR is the amount of income being budgeted on the client's case.

Employer ended in February 2021. There was no dispute that Petitioner received her last pay from Employer no later than March 2021.

MDHHS never made clear why it needed to verify Petitioner's past income from Employer to determine her ongoing income. Nevertheless, MDHHS mailed Petitioner a VCL on May 4, 2021, requesting Petitioner's last 30 days of income from Employer.³ Petitioner's due date to return the verification was May 14, 2021. It was not disputed that Petitioner had not returned to MDHHS income documents from Employer by the VCL due date, the date of Notice of Case Action, or the end of May 2021.⁴

Despite Petitioner's failure, it cannot be stated that Petitioner failed to comply with the VCL request. As of May 4, 2021, the date of VCL, Petitioner had no income from Employer within the last 30 days. Without income from the past 30 days from Employer, Petitioner had no income documents to return.

Given the evidence, Petitioner did not fail to comply with a VCL requesting the last 30 days of income from Employer. Thus, the corresponding termination of FAP benefits was improper.

³ Perhaps MDHHS intended to request Petitioner's income information from Employer because the income was not previously reported. If this is so, then MDHHS should have made this clearer in its VCL request, Hearing Summary (Exhibit A, p. 1) and/or presented evidence. It should be noted that Petitioner may not have been required to report the income if she was a simplified reporter and the income she received did not exceed monthly simplified reporting limits (see BAM 200).

⁴ MDHHS acknowledged that Petitioner submitted at least one of her pays from Employer on June 1, 2021. MDHHS also acknowledged receiving a document listing all of Petitioner's pays from Employer. Petitioner credibly testified that the document, though unsigned, was sent to her electronically, and the best evidence of her income from Employer.

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 commence the following actions within 10 days of the date of mailing of this decision:

- (1) Reprocess Petitioner's FAP eligibility beginning June 2021 subject to the finding that Petitioner did not fail to comply with a VCL requesting the last 30 of income from Employer; and
- (2) Issue a supplement of benefits, if any, and notice 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-57-Hearings
M. Holden
D. Sweeney
BSC4
MOAHR

Petitioner – Via First-Class Mail:

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