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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: August 27, 2021
MOAHR Docket No.: 21-003400
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 18, 2021. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Valarie Foley, hearings facilitator.

ISSUE

The issue is whether MDHHS properly denied Petitioner's application requesting Food Assistance Program (FAP).

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 and Medical Assistance (MA) benefits. Petitioner reported pregnancy, a household that included her five children, and being separated from her spouse. Petitioner also reported \$0 income and a monthly mortgage of ██████████. Petitioner further reported having three bank accounts and no other real property.
2. As of June 1, 2021, Petitioner was the owner/co-owner of multiple properties.
3. On an unspecified date, MDHHS approved Petitioner for FAP benefits.
4. On June 2, 2021, MDHHS mailed Petitioner a Verification Checklist (VCL) requesting proof of income and/or self-employment income.

5. On an unspecified date, MDHHS requested a front-end eligibility (FEE) investigation, in part, because of the discrepancy between Petitioner's reported income and expenses.
6. On June 11, 2021, the FEE investigator called Petitioner and left two voicemail messages requesting a return call.
7. On June 22, 2021, the FEE investigator called Petitioner and left a voicemail message requesting a return call.
8. On July 1, 2021, the FEE investigator documented that two undissolved businesses were registered with the Licensing and Regulatory Affairs (LARA) at Petitioner's residences. The investigator further documented that Petitioner owned a [REDACTED]
9. On July 1, 2021, MDHHS terminated Petitioner's FAP eligibility beginning August 2021 due to Petitioner's alleged failure to verify information and/or ineligibility to meet program requirements.
10. As of July 5, 2021, Petitioner failed to contact the FEE investigator.
11. On [REDACTED], 2021, Petitioner requested a hearing to dispute the termination of FAP benefits effective August 2021. Petitioner additionally requested a hearing to dispute Medical Assistance (MA) eligibility.
12. On August 18, 2021, during an administrative hearing, Petitioner withdrew her dispute of MA benefits.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25.

Petitioner requested a hearing, in part to dispute MA eligibility. Exhibit A, p. 3. During the hearing, Petitioner acknowledged that she is receiving MA benefits and has not received a letter of closure. Based on the absence of an adverse action, Petitioner withdrew her dispute over MA eligibility. MDHHS had no objections. Accordingly, Petitioner's hearing request disputing MA benefits will be dismissed.

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 also verbally requested a hearing disputing a termination of FAP benefits.¹ Exhibit A, p. 3. A Notice of Case Action dated July 1, 2021, stated that Petitioner's FAP eligibility would end August 2021 due to failing to verify unspecified information.² Exhibit A, pp. 25-27.

Petitioner applied for FAP benefits on [REDACTED] 2021 and reported no income for her household and a monthly mortgage obligation of \$[REDACTED].³ Exhibit A, pp. 5-13. Petitioner additionally reported a responsibility to pay all utilities. MDHHS documented that Petitioner reported receiving an unspecified amount of money from family members and that the mortgage was paid only once in the past 12 months. MDHHS is to refer a case for FEE investigation when a client reports questionable income and/or expenses at application. BAM 115 (January 2021) p. 18. Based on Petitioner's substantial discrepancy between her reported income and expenses, MDHHS properly initiated a FEE investigation.

In an investigation report dated July 1, 2021, the FEE investigator documented that a CLEAR report indicated that four vehicles were registered at Petitioner's reported address. Exhibit A, pp. 21-23. The vehicles included a [REDACTED] registered to Petitioner and three vehicles registered to her reportedly separated spouse.⁴ The report also noted that Petitioner owned a nearby second home; this was not reported on Petitioner's application for benefits. Also, the FEE investigator documented that two undissolved businesses were registered with LARA at the properties owned by Petitioner.⁵

The FEE investigator also documented that he was unable to elicit a response from Petitioner. The investigator documented making two calls to Petitioner on June 11, 2021, which went unreturned. A third call on June 22, 2021, was also documented as unreturned.

¹ Clients may verbally request hearings to dispute FAP eligibility. BAM 600 (January 2020) p. 2.

² The notice also stated that the group was ineligible due to all members failing to meet program requirements. This basis for closure was not seriously considered for two reasons. First, there was no evidence suggesting that at least some of Petitioner's household met the requirements for FAP. Secondly, the policy cited as support (BEM 110, 165, 210, and 211) does not apply to FAP benefits.

³ Despite the FEE investigation, MDHHS still issued expedited FAP benefits to Petitioner (see BAM 117).

⁴ The vehicles registered to Petitioner's spouse included a [REDACTED], and [REDACTED].

⁵ A dissolved third business was also discovered.

Petitioner testified that she spoke with the FEE investigator on June 25, 2021, as well as two subsequent occasions. Petitioner also denied receiving any voicemails on June 11, 2021. Petitioner's testimony was inconsistent with a comment made by a specialist on July 5, 2021, which documented that Petitioner acknowledged not speaking with the FEE investigator. Clients must cooperate with the local office in determining initial and ongoing eligibility. BAM 105 (July 2020) p. 9. The evidence established that Petitioner failed to cooperate in the FEE investigation by July 5, 2021, despite multiple voicemails left for her.

Petitioner's application reporting was questionable due to the substantial discrepancy between reported income and expenses. The findings of the FEE investigator coupled with Petitioner's lack of cooperation rendered her case to be extremely questionable. The evidence did not definitively establish that Petitioner was ineligible to receive benefits; however, the evidence did establish that Petitioner had enough questionable eligibility factors that benefit termination was proper following Petitioner's lack of cooperation in the FEE investigation. Thus, MDHHS properly terminated Petitioner's FAP eligibility.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that Petitioner withdrew her dispute of MA eligibility. Concerning MA eligibility, Petitioner's hearing request is **DISMISSED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly terminated Petitioner's FAP eligibility beginning August 2021. The actions taken by MDHHS are **AFFIRMED**.

CG/tm



Christian Gardocki
Administrative Law Judge

