



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: September 1, 2021
MOAHR Docket No.: 21-003574
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 26, 2021. Petitioner participated and was unrepresented. 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 for 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 benefits and reported ongoing self-employment income.
2. On June 1, 2021, MDHHS mailed Petitioner a VCL requesting proof of self-employment income by June 11, 2021. Acceptable verifications included Petitioner's most recent tax return and/or self-employment income documents.
3. On an unspecified date before June 25, 2021, Petitioner submitted to MDHHS a 2020 tax return.
4. On an unspecified date before June 25, 2021, Petitioner submitted to MDHHS various self-employment income documents.

5. On June 25, 2021, MDHHS denied Petitioner's application for FAP due to an alleged failure to verify self-employment income.
6. On [REDACTED], 2021, Petitioner requested a hearing to dispute the denial of FAP benefits. Petitioner also disputed an alleged denial of Medical Assistance (MA) benefits.
7. As of the date of hearing, Petitioner and her children received ongoing 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. The Department (formerly known as the Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing, in part, to dispute an alleged denial of MA eligibility. Exhibit A, pp. 3-4. Petitioner testified that she thought that MDHHS sent her a notice that MA benefits were denied or closed. MDHHS presented documentation indicating that Petitioner and her children received ongoing MA benefits. Exhibit B, p. 1. MDHHS also credibly testified that no adverse actions were taken to Petitioner's MA eligibility. Given the evidence, MDHHS took no adverse actions to Petitioner's MA eligibility. Thus, concerning Petitioner's dispute of MA eligibility, Petitioner's hearing request 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 BAM, BEM, and RFT.

Petitioner also requested a hearing to dispute a denial of FAP benefits. Exhibit A, pp. 3-4. Petitioner applied for FAP benefits on [REDACTED], 2021. Petitioner testified that she is a single mother and needs FAP benefits to help survive.¹ A Notice of Case Action dated June 25, 2021, stated that Petitioner's application was denied due to a failure to verify self-employment income. Exhibit A, pp. 10-13.

¹ Petitioner also questioned if she was racially discriminated against because she is "not uncolored and white". There was no corroboration for Petitioner's incendiary testimony.

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.*

Petitioner reported self-employment income on her application for FAP benefits. MDHHS followed-up by mailing Petitioner a VCL on June 1, 2021, requesting proof of self-employment income by June 11, 2021. Exhibit A, pp. 7-9. Recent business records and/or a recent tax return were listed examples of acceptable verification of self-employment income.

MDHHS acknowledged that Petitioner timely returned her most recent tax return which listed gross annual earnings of [REDACTED] (an average of [REDACTED] per week). MDHHS testified that Petitioner verbally reported making \$[REDACTED] per week during an application interview on June 14, 2021; Petitioner responded that she actually reported an income range as low as [REDACTED] per week. Regardless of how much self-employment income that Petitioner reported, MDHHS rejected Petitioner's tax return for failing to verify Petitioner's reported range of income.

Petitioner also subsequently submitted to MDHHS a pay stub from a self-employment job, various expense receipts, and an unsigned income statement. MDHHS rejected those documents because they were not accompanied by a statement of monthly earnings clarifying how much each month Petitioner received in monthly self-employment income.

MDHHS contended that Petitioner should have returned monthly self-employment forms mailed on June 1, 2021, requesting self-employment information covering March through May 2021.² Exhibit A, pp. 14-19. Notably, the forms were not among those listed on the VCL as acceptable verification. If MDHHS required the forms as self-employment income verification, the VCL should have stated so.

² MDHHS's Hearing Summary alleged that the self-employment forms were mailed following an interview with Petitioner on June 14, 2021. However, there was no corroborative evidence of such a mailing or a corresponding VCL requesting the documents.

Given the evidence, Petitioner twice submitted to MDHHS self-employment income records which complied with a VCL request. MDHHS's requirement that Petitioner submit monthly self-employment income records may have been proper, but the requirement was not properly requested by VCL. Thus, Petitioner's application was improperly denied. As a remedy, Petitioner is entitled to a reprocessing of her application.³

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS took no adverse actions to Petitioner's ongoing MA coverage. Concerning Petitioner's dispute over MA benefits, Petitioner's hearing request is **DISMISSED**.

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 application dated [REDACTED], 2021 requesting FAP benefits; and
- (2) Reprocess Petitioner's application subject to the finding that MDHHS improperly requested self-employment income verification.

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

CG/tm



Christian Gardocki
Administrative Law Judge

³ It should be noted that this decision does not state that Petitioner sufficiently verified self-employment income. If MDHHS is unable to determine Petitioner's income upon reprocessing, it must send a VCL specifically requesting the documents that Petitioner must submit.

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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