



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], MI [REDACTED]

Date Mailed: September 29, 2021
MOAHR Docket No.: 21-004063
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 on September 23, 2021. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Valarie Foley, hearings coordinator.

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. As of July 2021, Petitioner was an ongoing recipient of FAP benefits in a group with her adult son (hereinafter, "Son").
2. On July 20, 2021, MDHHS mailed Petitioner a Verification Checklist (VC) requesting proof of Son's stopped employment income with [REDACTED] (hereinafter, "Employer") by July 30, 2021.
3. Before July 30, 2021, Petitioner left at least three voicemails for MDHHS stating that she was unable to verify Son's stopped employment due to Employer's lack of cooperation.
4. On July 30, 2021, Petitioner submitted a written statement to MDHHS that she was unable to verify Son's stopped income with Employer.

5. On August 20, 2021, MDHHS terminated Petitioner's FAP eligibility beginning September 2021 due to an alleged failure of Petitioner to verify stopped employment.
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 on [REDACTED] 2021, to dispute a closure of FAP benefits. Exhibit A, pp. 3-4. MDHHS credibly testified that a Notice of Case Action dated August 27, 2021, stated that Petitioner's FAP case would close September 2021 due to Petitioner's failure to verify stopped employment income.¹ MDHHS's testimony specified that Petitioner failed to verify Son's stopped income with Employer.

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 testified that it mailed Petitioner a VCL on July 20, 2021, giving her until July 30, 2021 to verify Son's stopped employment income with Employer. Petitioner was unable to timely return documentation verifying Son's stopped income. As a result, MDHHS closed Petitioner's case. Despite Petitioner's failure to verify stopped income from Employer, MDHHS erred by closing Petitioner's case.

Petitioner testified that she called Son's employer to obtain documentation of Son's stoppage in employment. Petitioner further testified that a manager from Employer told her that such a document was unnecessary because Son no longer worked there. Petitioner credibly testified that she left three voicemails for MDHHS which reported her

¹ MDHHS's Hearing Summary alleged that Petitioner was ineligible for FAP due to excess gross income. Exhibit A, pp. 1-2. The hearing packet also included a budget indicating that Petitioner was ineligible for FAP due to gross income. Exhibit A, pp. 5-6. However, due to the absence of notice that the closure occurred due to excess income, this basis for FAP closure was ignored.

efforts and inability to obtain the requested verification. Petitioner's testimony was corroborated by a written statement she submitted to MDHHS on July 30, 2021, explaining her efforts in obtaining the verification.

The client must obtain required verification, but the local office must assist if they need and request help. BAM 130 (January 2021) p. 3. If neither the client nor the local office can obtain verification despite a reasonable effort, MDHHS is to use the best available information. *Id.* If no evidence is available, MDHHS is to use best judgment.

Petitioner's written statement that she could not obtain verification served as a request for help in obtaining verification. In response, MDHHS should have attempted to call Employer, provide Petitioner with guidance on how to proceed, and/or accept Petitioner's statement as the best available evidence. Instead, MDHSH improperly closed Petitioner's FAP case.

Given the evidence, MDHHS improperly terminated Petitioner's FAP eligibility. As a remedy, Petitioner is entitled to a reinstatement of FAP benefits.²

² A reinstatement may result in no additional FAP benefits being issued. It was not disputed that Petitioner reapplied for FAP benefits in [REDACTED] 2021 and was approved. Even though Petitioner was only approved for benefits from her application date, she likely received the maximum FAP issuance for her group size based on a temporary statewide policy during the COVID-19 pandemic.


DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly closed Petitioner's FAP case. It is ordered that MDHHS commence the following actions within 10 days of the date of mailing of this decision:

- (1) Reinstate Petitioner's FAP case beginning September 1, 2021; and
- (2) Issue notice and supplements, if any, in accordance with policy.

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

CG/m



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-19-Hearings
M. Holden
D. Sweeney
BSC4
MOAHR

Petitioner – Via First-Class Mail:

██████████
████████████████████
██████████, MI ██████████