



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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Date Mailed: May 13, 2022
MOAHR Docket No.: 22-001663
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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 telephone hearing was held on May 11, 2022, from Detroit, Michigan. Petitioner was present with his son, ██████████. The Department of Health and Human Services (Department) was represented by Lisa Mims-Jones, Eligibility Specialist. Also present was Arabic interpreter, ██████████.

ISSUE

Did the Department properly deny Petitioner's Food Assistance Program (FAP) benefit case?

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 ██████████ 2022, Petitioner submitted an application for FAP benefits.
2. On February 17, 2022, an interview was completed with Petitioner related to his FAP application.
3. On February 24, 2022, Petitioner submitted Self-Employment Income and Expense Statements for January 2022 and November 2021 (Exhibit A, pp. 10-13). Petitioner also submitted pay statements dated January 7, 2022; January 21, 2022; and February 4, 2022.
4. On March 1, 2022, the Department initiated a Front End Eligibility (FEE) investigation (Exhibit A, pp. 7-8).

5. On March 10, 2022, an interview was completed with Petitioner and his son, [REDACTED]. Petitioner was advised to submit additional income information.
6. On March 25, 2022, the Department sent Petitioner a Notice of Case Action informing him that his application for FAP benefits was denied (Exhibit A, pp. 14-18).
7. On [REDACTED], 2022, Petitioner submitted a request for hearing disputing the Department's actions.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

The Food Assistance Program (FAP) [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. The Department (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

In the present case, Petitioner submitted an application for FAP benefits. The Department testified that an interview was completed with Petitioner on February 17, 2022, during which Petitioner disclosed that he was self-employed and the partial owner of a carpet cleaning business. The Department presented Self-Employment Income and Expense Statements for November 2021 and January 2022, that were submitted by Petitioner. The Department also testified that Petitioner submitted pay stubs for the pay dates of January 7, 2022; January 21, 2022; and February 4, 2022. The Department stated that there was a discrepancy between the expense statements and the pay stubs submitted by Petitioner. As a result, the Department initiated a FEE investigation.

During the FEE investigation, the Office of Inspector General (OIG) advised Petitioner and his son on March 10, 2022, that the documents he submitted were insufficient to verify Petitioner's income. Petitioner and his son were informed they needed to submit accurate income information. Per the FEE investigation report, Petitioner's son submitted expense and depreciation records. The Department believed Petitioner did not provide accurate income information. The FEE investigation report indicated that Petitioner was "intentionally uncooperative." At the hearing, the Department testified that it was seeking Petitioner's business' Schedule C tax form. The Department stated that Petitioner submitted his personal tax return but did not submit sufficient verification of his business income and expenses. As a result, Petitioner's FAP application was denied.

Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (January 2021), p. 1. To request verification of information, the Department sends a verification checklist (VCL) which tells the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. For FAP cases, the Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verification that is required. BAM 130, p. 7. Verifications are considered to be timely if received by the date they are due. BAM 130, p. 7. For electronically transmitted verifications (fax, email or Mi Bridges document upload), the date of the transmission is the receipt date. BAM 130, p. 7. Verifications that are submitted after the close of regular business hours through the drop box or by delivery of a Department representative are considered to be received the next business day. BAM 130, p. 7. The Department sends a negative action notice when: the client indicates a refusal to provide a verification OR the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130, p. 7.

At the hearing, Petitioner testified that he believed he cooperated with the Department's request for verification. Petitioner stated that he asked his accountant that provides tax services for his business for documentation that would satisfy the Department's request. Petitioner stated he was not familiar with the Schedule C.

Based on the evidence presented, Petitioner made a good faith effort to comply with the Department's verification requests. Per the FEE investigation, Petitioner was intentionally uncooperative in his submissions of income verification. However, the OIG agent that completed the report was not present at the hearing to testify as to how Petitioner was being intentionally uncooperative. Additionally, the Department did not provide any of the documentation submitted by Petitioner to independently verify that the documents were insufficient to verify Petitioner's self-employment income. The Department sends a negative action when the client indicates a refusal to provide a verification or the time period given has elapsed and the client has not made a reasonable effort to provide it. Based on the evidence provided, Petitioner did not indicate a refusal to provide the verification and made a reasonable effort to comply with the requests for verification. Thus, the Department did not act in accordance with policy when it denied Petitioner's FAP application.

DECISION AND ORDER

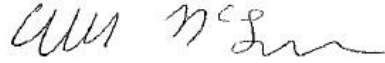
Accordingly, the Department's decision is **REVERSED**.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reinstate and reprocess Petitioner's [REDACTED], 2022 application;

2. If Petitioner is eligible for FAP benefits, provide supplements he is entitled to receive; and

Notify Petitioner of its decision in writing.



EM/tm

Ellen McLemore
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

Email Recipients:

MDHHS-Wayne-17-Hearings
M. Holden
D. Sweeney
BSC4
MOAHR

First-Class Mail Recipient:

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██████████, MI ██████████