



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

██████████ ██████████
██
██████████
████████████████████ MI ██████████

Date Mailed: March 16, 2022
MOAHR Docket No.: 22-000233
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 March 10, 2022. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Elizabeth Trompen, supervisor, and Crystal Tjapkes, 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. On November 2, 2021, Petitioner reported to MDHHS receipt of employment income.
2. On November 2, 2021, MDHHS mailed a Verification Checklist (VC) requesting proof of Petitioner's employment income. MDHHS mailed the VCL to an incorrect address for Petitioner.
3. On November 30, 2021, MDHHS mailed notice of a termination of Petitioner's FAP eligibility beginning January 2022. MDHHS mailed it to an incorrect address for Petitioner.

4. On December 2, 2021, Petitioner verbally requested a hearing to dispute the termination of FAP benefits.

CONCLUSIONS OF LAW

The 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. MDHHS administers the FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011. FAP policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner verbally requested a hearing to dispute a termination of FAP benefits.¹ Exhibit A, p. 4. A Notice of Case Action dated November 30, 2021, stated that Petitioner's FAP eligibility would end January 2022 due to a failure to verify employment income. Exhibit A, pp. 9-13.

For FAP starting employment income may be verified when the reported information is unclear. BEM 500 (July 2020) p. 10. For all programs, MDHHS is to tell the client what verification is required, how to obtain it, and the due date. BAM 130 (July 2021) 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 must also inform the client of the reason for closure in a written notice. BAM 220 (November 2021) p. 2. Notices must include the action taken by MDHHS, the reason for the action, the specific manual item which cites the legal basis for action, an explanation of the right to request a hearing, and the conditions under which benefits may be continued if a hearing is request. *Id.*, p. 3.

MDHHS initially justified closing Petitioner's FAP benefits based on sending a VCL dated November 2, 2021, requesting proof of employment income. Exhibit A, pp. 5-7. It was not disputed that Petitioner has still not submitted proof of employment income to MDHHS. After Petitioner requested a hearing, MDHHS realized that Petitioner's address was incorrectly inputted into its system and that the VCL was sent to an incorrect address.²

The MDHHS failure to properly request verification of employment income, by itself, would justify reversal of the FAP closure. For good measure, MDHHS has still not

¹ Clients may verbally request hearings to dispute FAP eligibility. BAM 600 (January 2021) p. 8.

² MDHHS thought it sent Petitioner another VCL in February 2022; during the hearing, MDHHS acknowledged that the second VCL was never mailed.

properly sent Petitioner notice of FAP termination as it was sent to the same incorrect address as the VCL.

MDHHS should be credited for acknowledging its errors; however, no credit can be given for correcting its errors. As of the hearing date, MDHHS admitted that FAP benefits have still not yet been issued to Petitioner for January 2022 or thereafter.

Given the evidence, MDHHS failed to properly request verification of Petitioner's employment income. MDHHS also failed to send Petitioner proper notice of FAP termination and/or benefit reinstatement for its error. Thus, the termination of Petitioner's FAP eligibility due to an alleged failure to verify income was improper. As a remedy, Petitioner is entitled to benefit reinstatement.

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) Reinstate Petitioner's FAP eligibility beginning January 2022 subject to the findings that MDHHS failed to properly request proof of employment income and to properly send proper notice of closure; and
 - (2) Issue benefit supplements and notice in accordance with policy.
- The actions taken by MDHHS are **REVERSED**.

CG/mp



Christian Gardocki

Administrative Law Judge

