



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: June 10, 2022
MOAHR Docket No.: 22-001982
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Linda Jordan

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 on June 6, 2022 via teleconference. Petitioner appeared and represented herself. Gloria Thompson, Family Independence Manager, and Shawnte Gordon, Eligibility Specialist, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department).

ISSUE

Did MDHHS properly deny Petitioner's application for Food Assistance Program (FAP) benefits?

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 applied for FAP (Exhibit A, p. 1).
2. On March 1, 2022, MDHHS sent Petitioner a Verification Checklist (VCL), which requested verification of utility expenses and self-employment income (Exhibit A, pp. 19-20). The VCL indicated that proofs were due by March 11, 2022 (Exhibit A, p. 19).
3. On March 1, 2022, MDHHS sent Petitioner Self-Employment Income and Expense Statements, which requested information regarding Petitioner's self-employment income and expenses for the months of January 2022 and February 2022 (Exhibit A, pp. 21-24).

4. On March 29, 2022, MDHHS sent Petitioner a Notice of Case Action indicating that her FAP application was denied due to her failure to return the requested verifications regarding her self-employment income (Exhibit A, pp. 16-17).
5. On [REDACTED] 2022, Petitioner reapplied for FAP (April FAP Application) (Exhibit A, p. 1).
6. On April 7, 2022, MDHHS sent Petitioner a VCL, which requested information regarding Petitioner's utilities and shelter expenses (Exhibit A, pp. 13-14). The VCL indicated that proofs were due by April 18, 2022 (Exhibit A, p. 13).
7. On April 13, 2022, MDHHS sent Petitioner Self-Employment Income and Expense Statements, which requested information about Petitioner's self-employment income and expenses for the months of January and February 2022 (Exhibit A, pp. 9-12).
8. On May 3, 2022, MDHHS sent Petitioner a Notice of Case Action indicating that her application for FAP was denied, effective April 4, 2022 ongoing (Exhibit A, p. 6). The reason for the denial was that Petitioner failed to verify information necessary to determine eligibility for the program (Exhibit A, p. 8).
9. On [REDACTED] 2022, Petitioner filed a Request for Hearing regarding the denial of her FAP application (Exhibit A, pp. 3-4).
10. On May 4, 2022, MDHHS approved the April FAP Application and issued Petitioner FAP benefits beginning May 4, 2022 ongoing.

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. MDHHS administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

In this case, Petitioner disputed MDHHS' decision to deny the [REDACTED] FAP Application. At the hearing, Petitioner clarified that although she initially applied for FAP benefits on [REDACTED], 2022, she did not dispute MDHHS' denial of that application because she did not return the requested verifications as required. MDHHS agreed with Petitioner's testimony. Additionally, MDHHS approved Petitioner for FAP benefits beginning May 4,

2022 after Petitioner returned all requested verifications. Petitioner contested the start date of the FAP benefits, asserting that the benefits should start on [REDACTED] 2022, instead of [REDACTED], 2022. Therefore, this decision will address whether MDHHS properly denied the [REDACTED] FAP Application initially and the start date of Petitioner's FAP benefits.

The record shows that Petitioner applied for FAP benefits on [REDACTED], 2022. After Petitioner filed the [REDACTED] FAP Application, MDHHS sent her a VCL on April 7, 2022 (Exhibit A, p. 13). The VCL requested proof of utility and shelter expenses and stated that proofs were due by April 18, 2022 (Exhibit A, pp. 13-14). Additionally, MDHHS sent Petitioner a Self-Employment Income and Expense Statements, which indicated that MDHHS was requesting information regarding Petitioner's self-employment income for January and February 2022 (Exhibit A, pp. 9-12). The Self-Employment Income and Expense Statements did not have a due date. MDHHS testified that it did not receive the Self-Employment Income and Expense Statement for January 2022 timely, and therefore, it denied the [REDACTED] FAP Application.

MDHHS is required to obtain verification when it is required by policy or information is unclear or incomplete. BAM 130 (January 2022), p. 1. To obtain verification, MDHHS must tell the client what verification is required, how to obtain it and the due date. *Id.* MDHHS is required to use a VCL to request verification from clients. *Id.* Clients are required to obtain the requested verification, but the local office must help if they need and request help. BAM 130, p. 3. If neither the client nor the local office can obtain verification despite a reasonable effort, MDHHS is required to use the best available information. *Id.* Verifications are considered timely if they are received by the date that they are due. BAM 130, p. 7. MDHHS is required to send a negative action notice if the time period has elapsed and the client has not made a reasonable effort to provide the requested verification. *Id.* However, if a client contacts MDHHS prior to the due date and requests an extension or assistance in obtaining the verification, MDHHS must assist the client. *Id.*

For self-employment income, MDHHS is required to verify the countable income at application prior to authorizing benefits. BEM 502 (October 2019), p. 6. Verification sources for self-employment income include income tax returns, a Self-Employment Statement with all income receipts to support claimed income or a Self-Employment Statement without receipts. *Id.*, p. 7. The amount of countable self-employment income equals the total proceeds from the business minus allowable expenses. *Id.*, p. 3. Allowable expenses are the higher of 25% of the total proceeds or the actual expenses if the client chooses to claim and verify the expenses. *Id.*

At the hearing, Petitioner testified that she was confused about what verifications were necessary to submit and believed that she had submitted all the required documentation to MDHHS. Additionally, Petitioner stated that she attempted to contact her caseworker and an MDHHS supervisor numerous times to inquire about which documents were needed but she was unable to reach anyone.

Although MDHHS testified that the [REDACTED] 2022 FAP Application was denied for failure to return the January 2022 Self-Employment Income and Expense Statement only, the VCL did not request proof of self-employment income (Exhibit A, pp. 13-14). Further the Self-Employment Statements that MDHHS sent to Petitioner did not include a due date. MDHHS is required to specifically tell clients what verifications are required, how to obtain them and the due date. Here, there was ambiguity in what Petitioner was required to submit and the deadline for the verifications. In addition, Petitioner testified that she attempted to contact MDHHS for assistance prior to the denial of the [REDACTED] FAP Application but that she was unable to reach anyone. MDHHS is required to assist clients who ask for help and it failed to demonstrate that it did so here.

Therefore, the Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the MDHHS failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Petitioner's [REDACTED] FAP Application.

DECISION AND ORDER

Accordingly, MDHHS' decision is **REVERSED**.

MDHHS 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. Reregister the [REDACTED], 2022 FAP Application;
2. Reprocess the application and recalculate the FAP budget from April 4, 2022 ongoing;
3. If Petitioner is eligible for benefits, issue supplements to Petitioner for any FAP benefits she was eligible to receive but did not from April 4, 2022 ongoing; and
4. Notify Petitioner of its decision in writing.

LJ/tm



Linda Jordan
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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