



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: August 9, 2022  
MOAHR Docket No.: 22-002940  
Agency No.: ██████████  
Petitioner: ██████████ ██████████

**ADMINISTRATIVE LAW JUDGE: Danielle Nuccio**

**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 August 4, 2022. The Petitioner appeared was represented by Authorized Hearing Representative (AHR), ██████████ ██████████. The Department of Health and Human Services (MDHHS) was represented by Valarie Foley, Hearings Facilitator.

**ISSUE**

Did MDHHS properly deny Petitioner's ██████████ 2022 Food Assistance Program (FAP) application for failure to return verification of income timely?

**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 for a group size of two, consisting of her husband, ██████████ ██████████ (Spouse), and herself (Exhibit A, p. 1).
2. On March 23, 2022, MDHHS issued a Verification Checklist (VCL) to Petitioner, requesting 30 days of income information for Spouse and documentation of Spouse's unemployment compensation benefits. MDHHS requested that this information be submitted by April 4, 2022 (Exhibit A, pp. 9-11).
3. On ██████████ 2022, MDHHS issued a Notice of Case Action to Petitioner informing her that her FAP application was denied for failure to return verification of earned income for Spouse (Exhibit A, pp. 5-8).
4. On June 29, 2022, MDHHS received Petitioner's request for hearing regarding her FAP and Medicaid case (Exhibit A, p. 3).

## **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 this case, MDHHS expressed concern at the hearing that Petitioner's request for hearing was untimely. Requests for a hearing must be made in writing and signed by an adult member of the eligible group or AHR. The request must bear a signature. Faxes or photocopies of signatures are acceptable. MOAHR will deny requests signed by unauthorized persons and requests without signatures. BAM 600 (March 2021), p. 2. The client or AHR has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received in the local office within the 90 days. BAM 600, p. 6. In reviewing the request for hearing, there is a date stamp from MDHHS Appeals stating it was received on June 29, 2022 and a date stamp from Michigan Office of Administrative Hearings and Rules (MOAHR) stating it was received on July 13, 2022 (see Exhibit A, p. 3). MDHHS speculated at the hearing that the June 29, 2022 request was sent back to Petitioner because it was not signed. It was then returned signed on July 13, 2022. In reviewing the request for hearing, it is signed and it is unable to be determined whether the request was timely submitted without a signature. Therefore, the undersigned will conclude that the request for hearing was timely and valid and proceed with the following decision and order.

Petitioner requested a hearing regarding the denial of the [REDACTED] 2022 FAP application for failure to timely return verifications of income. AHR testified that they no longer were requesting a hearing regarding Medicaid because Petitioner's case is currently active. AHR withdrew the Medicaid hearing request without objection.

On March 23, 2022, MDHHS issued a Verification Checklist to Petitioner requesting verification of Spouse's employment and wages and unemployment compensation benefits be submitted by April 4, 2022. Verification is usually required at application and for a reported change affecting eligibility or benefit level. BAM 130 (January 2022), p. 1. All countable earned and unearned income available to the client must be considered in determining a client's eligibility for program benefits and group composition policies specify whose income is countable. BEM 500 (July 2020), pp. 1-5. MDHHS determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Prospective income is income not yet received but expected. BEM

505 (November 2021), pp. 1-2. In prospecting income, MDHHS is required to use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month, discarding any pay if it is unusual and does not reflect the normal, expected pay amounts. BEM 505, pp. 5-6. The client must obtain required verification, but the local office must assist if they need and request help. If neither the client nor the local office can obtain verification despite a reasonable effort, MDHHS must use the best available information. BAM 130, p. 3. If the time period given to provide verifications has elapsed and the client has not made a reasonable effort to provide it, then a negative action notice must be sent. BAM 130, p. 7.

In this case, MDHHS requested income information from the last 30 days from Spouse. Petitioner submitted 3 paystubs to MDHHS for pay periods: April 15, 2022, April 22, 2022, and April 29, 2022. MDHHS received these paystubs on May 4, 2022. MDHHS testified that the paystubs received did not contain income information for 30 days and did not include information regarding Spouse's rate of pay or hours worked so they would be unable to use this information to prospect future income. MDHHS did not receive any information regarding unemployment compensation benefits. Additionally, the income information submitted was submitted untimely; therefore, the negative action notice was issued on April 7, 2022. AHR acknowledged at the hearing that this was the only information that was submitted to MDHHS and that it was not submitted by the requested due date. Since MDHHS did not have 30 days of income information to prospect Petitioner's household income and determine FAP eligibility, MDHHS acted in accordance with policy in denying Petitioner's FAP application for failure to submit the requested verification of income.

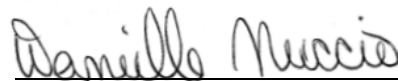
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that MDHHS acted in accordance with Department policy when it denied Petitioner's [REDACTED] 2022 FAP application.

### **DECISION AND ORDER**

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

Petitioner's request for hearing regarding her Medicaid case is **DISMISSED**.

DN/mp



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**Danielle Nuccio**

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-Electronic Mail :**

**DHHS**  
MDHHS-Wayne-19-Hearings  
EQAD Hearings  
D. Sweeney  
C. George  
M. Holden  
MOAHR  
BSC4

**Via-First Class Mail :**

**Petitioner**  
[REDACTED] [REDACTED]  
[REDACTED] [REDACTED]  
[REDACTED] MI [REDACTED]