



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: December 22, 2022
MOAHR Docket No.: 22-004989
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 December 19, 2022. The Petitioner appeared and represented herself. The Department of Health and Human Services (MDHHS) was represented by Tatirah Glenn, Eligibility Specialist.

ISSUE

Did MDHHS properly deny Petitioner's application for the Food Assistance Program (FAP) for failure to timely submit the requested verifications?

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 benefits. Petitioner reported being disabled and having various medical expenses.
2. On ██████████ 2022, MDHHS determined Petitioner to be ineligible for FAP benefits in ██████████ 2022 due to excess gross income. MDHHS also determined Petitioner to be eligible for \$20.00 in FAP benefits beginning ██████████ 2022. Both determinations factored \$0 medical expenses.
3. On August 22, 2022, a hearing was held regarding Petitioner's denied FAP application.
4. On August 25, 2022, MDHHS was ordered to reprocess Petitioner's ██████████ 2022 application, finding that Petitioner is a disabled individual and process Petitioner's reporting of medical expenses.

5. On August 31, 2022, MDHHS issued a Verification Checklist (VCL) to Petitioner, requesting that she submit proof of her second mortgage, an updated Annuity Statement, and verification of medical expenses. MDHHS requested that this information be submitted by September 12, 2022 (Exhibit A, pp. 8-10).
6. On September 16, 2022, MDHHS issued a Notice of Case Action to Petitioner, informing her that her FAP case is closed, effective [REDACTED] 2022, for failure to return verification of unearned income (Exhibit A, pp. 12-16).
7. On October 28, 2022, MDHHS received Petitioner's timely submitted hearing request disputing the closure of her FAP case (Exhibit A, pp. 3-5).

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, Petitioner disputes the closure of her FAP case, effective [REDACTED] 2022, for failure to return verification of unearned income.

MDHHS requested Petitioner submit verification of her second mortgage, an updated Annuity Statement, and verification of medical expenses. Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. Verification is usually required at application and redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (January 2022), p. 1. 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, use the best available information. If no evidence is available, use your best judgment. BAM, p. 3. MDHHS must allow the client 10 calendar days to provide the verification that is requested. Verifications are considered to be timely if received by the date they are due. *MDHHS will issue 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.* BAM 130, p. 7 (Emphasis Added).

In this case, MDHHS requested that Petitioner submit an updated Annuity Statement regarding her retirement payments in order to calculate her unearned income. Payments an individual receives from an annuity are counted as the individual's unearned income. Petitioner testified that she receives the same amount each month for her annuity from retirement benefits. Petitioner submitted verification of this annuity amount to MDHHS (see Exhibit B, p. 1). MDHHS testified that the verification that Petitioner submitted was insufficient because it states what Petitioner received in March 2022 but does not state that she receives that same amount every month. MDHHS did not notify Petitioner that the submitted verification was insufficient prior to closing her FAP case. Pursuant to policy, MDHHS should not have issued a negative action notice closing Petitioner's FAP case because Petitioner was making efforts to timely submit the requested verification of unearned income. MDHHS should have notified Petitioner that additional information was needed to determine her eligibility and only closed her case if Petitioner refused to provide that verification. Here, Petitioner had made a reasonable effort to provide the requested verification of unearned income and MDHHS should not have closed her case. Therefore, MDHHS did not act in accordance with policy in closing Petitioner's FAP case.

MDHHS also requested that Petitioner submit verification of a second mortgage payment. Petitioner testified that she does not have a second mortgage payment. MDHHS testified that they were unsure why this information was requested. Failure to submit this information did not lead to denial of Petitioner's application. Rather, if Petitioner did have a second mortgage, that expense was not included in her FAP budget. Since Petitioner does not pay a second mortgage, MDHHS properly excluded that expense from the budget.

MDHHS requested that Petitioner submit verification of medical expenses. MDHHS is to consider the medical expenses of S/D/V group members. BEM 554 (January 2022) p. 8. An S/D/V group is one with a senior (a person over the age of 60 years), disabled, or disabled veteran, such as Petitioner's. BEM 550 (January 2022) p. 1. MDHHS is to estimate medical expenses incurred by the client during the benefit period. An S/D/V group that has a verified one-time or ongoing medical expense(s) of more than \$35 for an S/D/V person(s) will receive the Standard Medical Deduction (SMD). The SMD is \$165.00. If the group has actual medical expenses which are more than the SMD, they have the option to verify their actual expenses instead of receiving the SMD. BEM 554, pp. 8-9. Here, Petitioner testified that she has submitted all medical expenses to MDHHS for consideration multiple times. MDHHS testified that they have received receipts from Petitioner's vision care costs, oral surgery costs, explanation of benefits, and prescription co-pay amount. Petitioner testified that she has also submitted her monthly dental insurance cost and annual deductible amount. MDHHS should include all medical expenses submitted by Petitioner in her FAP budget. It is unclear if MDHHS included medical expenses in Petitioner's FAP budget since they closed her FAP case. Petitioner's household budget must include all medical expenses in the calculating her net income and determining her eligibility.

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 Department did not act in accordance with Department policy when it closed Petitioner's FAP case, effective [REDACTED] 2022.

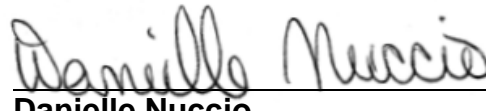
DECISION AND ORDER

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 Petitioner's FAP case as of [REDACTED] 2022;
2. Begin recalculating Petitioner's FAP budget for [REDACTED] 2022 ongoing, subject to the finding that MDHHS failed to process Petitioner's reporting of unearned income and medical expenses;
3. If Petitioner is eligible for FAP benefits, issue supplements to Petitioner for any FAP benefits she was eligible to receive but did not from [REDACTED] 2022 ongoing;
4. Notify Petitioner of its decision in writing.

DN/mp



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-Macomb-20-Hearings
D. Sweeney
M. Holden
MOAHR
BSC4

Via-First Class Mail :

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