



GRETCHEN WHITMER
GOVERNOR

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

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DIRECTOR

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Date Mailed: December 15, 2022
MOAHR Docket No.: 22-005366
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 December 14, 2022. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) did not participate despite being given at least 15 minutes from the scheduled hearing time to call.

ISSUE

The issue is whether MDHHS properly denied 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 benefits and reported receipt of Retirement, Survivors, disability Insurance (RSDI) and pension income.
2. On an unspecified date before July 8, 2022, Petitioner submitted documents verifying RSDI and pension income to MDHHS.
3. On ██████████ 2022, MDHHS denied Petitioner's application due to a failure to verify unearned income.
4. On August 19, 2022, Petitioner requested a hearing to dispute the denial of FAP benefits.

CONCLUSIONS OF LAW

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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner timely requested a hearing to dispute the denial of an application requesting FAP benefits. A Notice of Case Action dated [REDACTED] 2022, stated that Petitioner's application was denied due to a failure to verify unearned income.

For FAP benefits, gross RSDI and retirement income must be verified at application. BEM 500 (July 2020) pp. 29-30 and 43. For all programs, MDHHS is to tell the client what verification is required, how to obtain it, and the due date. BAM 130 (April 2017), 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.*

A Verification Checklist indicated that MDHHS requested verification of Petitioner's unearned income by July 8, 2022. Petitioner testified that her only income derived from RSDI and a monthly pension of \$[REDACTED]. Petitioner also testified that she returned documents to MDHHS before the VCL due date verifying her RSDI and pension income. Petitioner's testimony was credible; further, Petitioner's testimony was un rebutted by MDHHS who failed to participate in the hearing.

Given the evidence, Petitioner timely complied with a VCL requesting proof of unearned income. Thus, MDHHS improperly denied Petitioner's FAP application due to a failure to verify unearned income. As a remedy, Petitioner is entitled to a reprocessing of the application.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly denied Petitioner's application requesting FAP benefits. It is ordered that MDHHS commence the following actions within 10 days of the date of mailing of this decision:

- (1) Reregister Petitioner's application for FAP benefits dated [REDACTED] 2022;

- (2) Reprocess Petitioner's application subject to the finding that Petitioner timely verified RSDI and pension income; and
- (3) Issue notice and supplements, if any, in accordance with policy.

The actions taken by MDHHS are **REVERSED**.

CG/mp



Christian Gardocki
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-31-Grandmont-Hearings
D. Sweeney
M. Holden
MOAHR
BSC4

Via-First Class Mail :

Petitioner

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