



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: February 2, 2023
MOAHR Docket No.: 22-006214
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 January 30, 2023. Petitioner appeared and was unrepresented. ██████████, Petitioner's mother, testified on behalf of Petitioner. The Michigan Department of Health and Human Services (MDHHS) was represented by Dania Ajami, 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. As of October 2022, Petitioner was an ongoing recipient of FAP benefits with a benefit period certified through November 2022.
2. On October 28, 2022, MDHHS mailed Petitioner a Verification Checklist (VCL) requesting proof of Petitioner's residential address, utility obligation, and "Real Property Unknown".
3. On an unspecified date, Petitioner timely returned a copy of a driver's license and utility bill.
4. On November 30, 2022, MDHHS terminated Petitioner's FAP eligibility beginning December 2022 due to Petitioner's alleged failure to verify information.

5. On December 8, 2022, Petitioner 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 requested a hearing to dispute a termination of FAP benefits. Exhibit A, pp. 3-4. A Notice of Case Action dated November 30, 2022, stated that Petitioner's FAP eligibility would end December 2022 due to a failure to verify information¹. Exhibit A, pp. 21-24.

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 use the DHS-3503, Verification Checklist (VCL), to request verification. *Id.* MDHHS is to allow the client 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 sent Petitioner a VCL on October 28, 2022, requesting proof of Petitioner's residential address and utility obligation. Exhibit A, pp. 17-19. MDHHS acknowledged that Petitioner satisfied the VCL request by timely submitting a copy of a driver's license and utility bill. The VCL additionally requested proof of "Real Property Unknown". MDHHS staff documented that county records listed Petitioner as the owner of her residence despite Petitioner's claim that she paid rent to a landlord.² Exhibit A, p. 20. MDHHS testimony clarified that "Real Property Unknown" was requested to verify Petitioner did not own the home where Petitioner claimed to pay rent. MDHHS contended that Petitioner's FAP case properly closed after Petitioner failed to verify that she did not own the property.

A request to verify "Real Property Unknown" is too ambiguous to alert a reasonable person what is being requested. Petitioner cannot be faulted for failing to return ownership documents for a property she did not claim to own. MDHHS cannot penalize

¹ The notice also stated that a group member does not meet program requirements. MDHHS presented no evidence of this a legitimate basis for benefit termination. Thus, it will not be considered further.

² MDHHS did not present the country records allegedly verifying Petitioner's ownership.

a client for failing to verify information when the requested information was too vague to understand.

Further, MDHHS terminated Petitioner's FAP eligibility in response to an alleged failure by Petitioner to essentially verify a rental obligation. A failure to verify a rental obligation should result in removing the rental obligation credit from the FAP budget rather than FAP benefit closure (see BEM 556).

The evidence failed to establish that MDHHS properly ended Petitioner's FAP eligibility following a proper request for verification. Thus, the termination of Petitioner's FAP eligibility beginning December 2022 was improper. As a remedy, Petitioner is entitled to a reprocessing of her benefit redetermination (see Exhibit A, pp. 12-16) beginning December 2022.

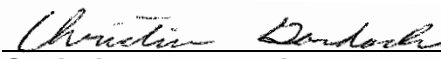
DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly terminated Petitioner's FAP eligibility beginning December 2022. MDHHS is ordered to commence the following actions within 10 days of the date of mailing of this decision:

- (1) Reprocess Petitioner's FAP eligibility beginning December 2022 subject to the finding that Petitioner did not fail to verify information; and
- (2) Issue notice and benefit 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-55-Hearings
D. Sweeney
M. Holden
MOAHR
BSC4

Via-First Class Mail :

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