



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

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

Date Mailed: February 14, 2023  
MOAHR Docket No.: 23-000222  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**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 February 8, 2023. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Pamela Carswell, supervisor, and Adam Czerkes, specialist.

### **ISSUE**

The issue is whether MDHHS properly terminated Petitioner's Food Assistance Program (FAP) benefit eligibility.

### **FINDINGS OF FACT**

The administrative law judge, based on the competent, material, and substantial evidence on the whole record, finds the following as material fact:

1. As of November 2022, Petitioner had a FAP benefit period certified through the end of December 2022.
2. On December 13, 2022, MDHHS received an Asset Detection Report listing five previously unreported accounts with balances for Petitioner.
3. On December 15, 2022, MDHHS sent Petitioner a Verification Checklist (VCL) requesting proof by December 27, 2022, of Petitioner's previously unreported accounts.
4. On January 5, 2023, MDHHS terminated Petitioner's FAP eligibility beginning January 2023 due to a failure to verify assets.

5. As of January 5, 2023, Petitioner had not submitted to MDHHS verification of assets.
6. On January 11, 2023, Petitioner requested a hearing to dispute the termination of FAP benefits. Petitioner also disputed Medical Assistance (MA) eligibility.
7. On February 8, 2023, Petitioner verbally withdrew his dispute concerning MA eligibility.

### **CONCLUSIONS OF LAW**

The MA program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. MDHHS administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MA policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing, in part, to dispute MA eligibility. During the hearing, Petitioner testified that his MA dispute was resolved and withdrew his hearing request concerning MA benefits. MDHHS had no objections to Petitioner's withdrawal. Concerning MA benefits, Petitioner's hearing request will be dismissed.

The Food Assistance Program [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. FAP policies are contained in the BAM, BEM, and RFT.

Petitioner also requested a hearing to dispute a termination of FAP benefits. Exhibit A, pp. 3-6. A Notice of Case Action dated January 5, 2023, stated that Petitioner's FAP eligibility ended January 2023 due to a failure to verify information.<sup>1</sup> Exhibit A, pp. 7-8. MDHHS testimony clarified that Petitioner specifically allegedly failed to verify assets.

Assets must be considered in determining eligibility for FAP benefits. BEM 400 (January 2021) p. 1. Assets include cash, such as savings and checking accounts. *Id.* For FAP, MDHHS is to verify countable assets at redetermination, if questionable. *Id.*, p. 61. Petitioner's FAP eligibility was scheduled for redetermination beginning January 2023. MDHHS testified that, while processing Petitioner's redetermination, an Asset Detection

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<sup>1</sup> Petitioner initially contended that a closure began November or December 2022 because he did not receive FAP benefits those months. An MDHHS supervisor and specialist each testified that Claimant did receive FAP benefits through December 2022. Along with the notice verifying a termination beginning January 2023, the evidence established that Petitioner received FAP benefits through December 2022.

Report discovered previously unreported accounts. Exhibit A, pp. 9-13. In response, MDHHS sent Petitioner a VCL requesting proof of the accounts by December 27, 2022. Exhibit B pp. 1-2. It was not disputed that MDHHS did not receive verification from Petitioner before the VCL due date, benefit termination notice mail date, or Petitioner's hearing request submission date.

Two days after requesting a hearing, Petitioner submitted various account documents to MDHHS on January 13, 2023. Petitioner testified his delay was partially caused by not receiving the VCL until after Christmas. Petitioner's claimed excuse does not negate benefit termination as there was no evidence that Petitioner contacted MDHHS to request an extension of the VCL due date.

Arguably, the account documents submitted by Petitioner satisfied the VCL request.<sup>2</sup> Clients who return documents to MDHHS within 30 days following the end of a redetermination period are eligible for "subsequent processing" of the redetermination. Subsequent processing allows MDHHS to process a redetermination beginning with the date that a client completed redetermination requirements (see BEM 210). Because Petitioner submitted the documents after requesting a hearing, administrative hearing jurisdiction does not extend to consider if MDHHS should have subsequently processed Petitioner's redetermination.<sup>3</sup>

The evidence established that Petitioner failed to verify assets by the hearing request date. Thus, MDHHS properly terminated Petitioner's FAP eligibility beginning January 2023.

### **DECISION AND ORDER**

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that Petitioner withdrew his dispute concerning MA benefits. Concerning MA, Petitioner's hearing request is **DISMISSED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly terminated Petitioner's FAP eligibility beginning January 2023.


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<sup>2</sup> MDHHS argued that Petitioner's submission did not satisfy the request to verify assets. MDHHS emphasized that Petitioner's name was absent from one account document, and a second document was too old to serve as verification; it was dated January 2022

<sup>3</sup> Petitioner can still request a hearing to dispute subsequent processing now that his submission date has passed.

Concerning FAP benefits, the actions taken by MDHHS are **AFFIRMED**.

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-57-Hearings  
D. Sweeney  
M. Holden  
MOAHR  
BSC4

**Via-First Class Mail** :

**Petitioner**  
[REDACTED]  
[REDACTED]  
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