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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: March 31, 2023
MOAHR Docket No.: 23-001048
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 March 23, 2023. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Valarie Foley, hearing facilitator.

ISSUES

The first issue is whether MDHHS properly denied Petitioner's State Emergency Relief (SER) application.

The second 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 December 2022, Petitioner was an ongoing recipient of FAP benefits with a benefit period certified through the end of the month.
2. Beginning January 2023, MDHHS allowed Petitioner's FAP eligibility to expire due to an alleged Petitioner failure to verify unspecified income.
3. On ██████████ 2023, Petitioner submitted to MDHHS an application reporting a household including Petitioner, his sister, and his mother. Petitioner reported buying and preparing food separately from all persons and a need for FAP benefits for each household member.

4. On January 26, 2023, MDHHS requested proof of household income with a due date of January 31, 2023. MDHHS additionally scheduled an interview with Petitioner on January 31, 2023.
5. On [REDACTED] 2023, Petitioner applied for SER requesting energy assistance.
6. On January 31, 2023, MDHHS failed to conduct an interview with Petitioner.
7. On February 9, 2023, MDHHS denied Petitioner's SER application due to Petitioner's alleged failure to verify income.
8. As of February 9, 2023, MDHHS failed to send Petitioner a State Emergency Relief Verification Checklist.
9. On February 15, 2023, Petitioner requested a hearing to dispute the termination of FAP benefits and denial of SER benefits.

CONCLUSIONS OF LAW

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. MDHHS administers the SER program pursuant to MCL 400.10 and Mich Admin Code, R 400.7001-.7049. SER policies are contained in the Emergency Services Manual (ERM).

Petitioner requested a hearing, in part, to dispute a denial of SER. Exhibit A, pp. 3-5. It was not disputed that Petitioner applied for SER on [REDACTED] 2023, seeking assistance with an energy bill. A State Emergency Relief Decision Notice dated February 9, 2023, stated that Petitioner's application was denied due to a failure to verify unspecified income. Exhibit A, pp. 7-10.

For SER, applicants must be informed of all verifications that are required and where to return verifications. ERM 103 (October 2022) p. 6. The due date is eight calendar days beginning with the date of application. *Id.* MDHHS is to send a DHS-3503, SER Verification Checklist, to request verification and to notify the client of the due date for returning the verifications. *Id.*

MDHHS's testimony acknowledged that a SER Verification Checklist was never mailed to Petitioner. MDHHS did send Petitioner a generic Verification Checklist on January 26, 2023 requesting proof of income and asset; however, this checklist cannot serve as a proper request for SER as Petitioner had not yet even applied for the program.

Given the evidence, MDHHS improperly denied Petitioner's SER application dated [REDACTED] 2023, requesting energy services. As a remedy, MDHHS will be ordered to reprocess the application including issuing a proper request for verification.

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 also requested a hearing to dispute a termination of FAP benefits. It was not disputed that Petitioner was an ongoing FAP recipient scheduled for benefit redetermination beginning January 2023. MDHHS alleged that Petitioner's FAP eligibility properly ended January 2023 due to a failure to verify information.

For all programs, a complete redetermination is required at least every 12 months. BAM 210 (October 2022) p. 3. Bridges, the MDHHS database, automatically sends a DHS-1010, Redetermination, to the client three days prior to the negative action cut-off date in the month before the redetermination is due. *Id.*, p. 8. For FAP benefits, the redetermination process begins when the client files a DHS-1010 or other acceptable substitute form. BAM 210 (January 2018), p. 3. FAP benefits stop at the end of the benefit period unless the redetermination process is completed and a new benefit period is certified. *Id.* If the redetermination packet is not logged in by the last working day of the redetermination month, Bridges automatically closes the benefits and a Notice of Case Action is not generated. *Id.*, p. 14.

Verifications must be provided by the end of the current benefit period or within 10 days after they are requested, whichever allows more time. *Id.*, p. 17. A VCL should be sent after the redetermination interview for any missing verifications allowing 10 days for their return. *Id.*

After MDHHS terminated Petitioner's FAP benefits beginning January 2023, Petitioner submitted to MDHHS an application for FAP benefits on [REDACTED] 2023.¹ MDHHS mailed Petitioner a VCL on January 26, 2023, requesting proof of income and assets by January 31, 2023. Exhibit A, pp. 12-15. The VCL additionally scheduled an interview with Petitioner on January 31, 2023. Multiple problems existed with MDHHS's verification request.

First, MDHHS failed to allow Petitioner sufficient time to return verifications. Petitioner is entitled to at least 10 days to return verification. The VCL dated January 26, 2023 allowed Petitioner only five days to return verification.

Secondly, MDHHS never clarified what information Petitioner failed to return. MDHHS's Hearing Summary claimed Petitioner "failed to upload all income verifications". Exhibit A, p. 1. MDHHS's statement implies that Petitioner verified some income, but not other income. MDHHS testified that Petitioner had income during the 3rd and 4th quarters of

¹ It is unknown if Petitioner submitted a redetermination form to MDHHS before submitting the application. However, an application may serve as a redetermination document. BAM 210 (October 2022) p. 8.

2022, and it had no documentation that Petitioner reported the income as starting or stopping. However, MDHHS also suggested a household member of Petitioner's had employment income.

Lastly, the evidence failed to establish a redetermination interview was held. For FAP benefits, MDHHS is to conduct a telephone interview at redetermination before determining ongoing eligibility. BAM 210 (October 2022) p. 6. An interview is required before denying a redetermination even if it is clear from that the group is ineligible. *Id.*, p. 5. Though MDHHS scheduled an interview with Petitioner on January 31, 2023, MDHHS testified that an interview was not held. In Petitioner's case, an interview was minimally needed to clarify Petitioner's FAP benefit group. Petitioner's application dated [REDACTED] 2023, reported a need for FAP benefits for Petitioner, his sister, and mother; Petitioner's reporting suggests a FAP benefit group of three persons. Petitioner also reported each person bought and prepared food separately; this reporting suggests a benefit group of only Petitioner.²

The evidence failed to establish that MDHHS properly requested verifications, that Petitioner failed to verify income, or that Petitioner was properly interviewed. Thus, MDHHS improperly terminated Petitioner's FAP eligibility. As a remedy, MDHHS will be ordered to reprocess Petitioner's FAP eligibility beginning with the closure month of January 2023.

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 January 2023. It is ordered that MDHHS commence the following actions within 10 days of the date of mailing of this decision:

- (1) Register and process Petitioner's FAP eligibility beginning January 2023;
- (2) Reregister and reprocess Petitioner's SER application requesting energy services dated [REDACTED] 2023; 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

² Generally, persons who buy and prepare food separately are not in the same FAP benefit group. BEM 212 (January 2022) p. 1. When persons buy and prepare food separately, it is expected that the persons apply for FAP benefits individually (i.e., submit their own application).

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
E. Holzhausen
J. Mclaughlin
D. Sweeney
M. Holden
MOAHR
BSC4

Via-First Class Mail :

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