



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: April 7, 2023  
MOAHR Docket No.: 23-001268  
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 April 3, 2023. The Petitioner appeared and represented herself. The Department of Health and Human Services (MDHHS) was represented by Valarie Foley, Hearings Facilitator.

### **ISSUE**

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

### **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 ██████████ 2023, Petitioner applied for FAP benefits for a group size of four, consisting of her three children and herself.
2. Petitioner was interviewed by MDHHS as part of the FAP application process. During the interview, Petitioner reported that her son, ██████████ (Son), had worked at ██████████ (Employer) but no longer does. Petitioner was advised to submit verification of Son's employment termination.
3. On February 2, 2023, MDHHS issued a Verification Checklist (VCL) to Petitioner, requesting that she submit proof of Son's loss of employment. MDHHS requested that this information be submitted by February 13, 2023 (Exhibit A, pp. 6-8).

4. On February 2, 2023, MDHHS issued an Employment Verification form to Petitioner, requesting that Employer complete and submit to MDHHS by February 13, 2023 (Exhibit A, pp. 9-11).
5. On or about February 15, 2023, Petitioner submitted to MDHHS an e-mail from Employer regarding Son's employment (Exhibit A, p. 13).
6. On February 27, 2023, MDHHS issued a Notice of Case Action to Petitioner, informing her that her FAP application was denied for failure to return verification of loss of employment (Exhibit A, pp. 23-27).
7. On March 1, 2023, MDHHS received Petitioner's timely submitted hearing request disputing the denial of her FAP application (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.

MDHHS denied Petitioner's FAP application for failure to return the requested verification of Son's loss of employment. Petitioner reported during the application interview that Son had been employed at Employer, but no longer worked there. In order to determine Petitioner's eligibility for FAP at the time of her application, MDHHS requested Petitioner submit verification of this loss of employment. 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 2023), p. 1. MDHHS must verify income that stopped within the 30 days prior to the application date or while the application is pending before certifying the eligibility for a client. 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). If eligibility fails due to lack of verification of stopped income, a client who reapplies, does not need to verify stopped income if it has been over 30 days. BAM 130, p. 14.

In this case, Petitioner reported that Son's employment ended, prompting MDHHS to issue an Employment Verification form and VCL to verify this loss of income. On or about February 15, 2023, Petitioner submitted to MDHHS an e-mail from Employer, dated February 11, 2023, stating that:

"Your attendance point balance has met or exceeded the termination threshold and you do not have enough Personal Time to cover the absence and a case has been created.....If you require support or are facing challenges, the HR Operations Center is..."

The e-mail submitted was incomplete (see Exhibit A, p. 13). MDHHS testified that since this e-mail did not include Son's name and did not state that he was terminated from employment, this verification was insufficient proof that Son no longer receives income. Petitioner testified that Son requested a formal termination letter from Employer, but Employer stated that they have no other termination paperwork to provide to him. Petitioner testified that she sent the Employment Verification to Employer, but Employer did not respond or complete the form. Petitioner testified that she was unaware that the e-mail she submitted was insufficient verification until she received the Notice of Case Action informing her that her FAP application was denied. MDHHS testified they reviewed the Work Number database to verify Son's employment status. The Work Number database receives income information directly from Employer and is accessed using Son's Social Security Number (see Exhibit A, pp. 17-19). The Work Number indicated that Son's employment status is "active". Since Son's status was considered active, and no verification of termination of employment was submitted, MDHHS denied Petitioner's FAP application for failure to submit verification of loss of employment.

However, in reviewing the Historical Pay Period Summary included in the Work Number database, Son is reported to have worked "0 hours" from October 8, 2022 through February 11, 2023. Additionally, Petitioner made reasonable efforts to obtain the requested verifications but was unable to receive a response from Employer. Petitioner submitted the only documentation that Son had received. Since MDHHS had confirmed via the Work Number that Son no longer was working for Employer, and since Petitioner made a reasonable effort to provide the requested information, MDHHS should have used the best available information to determine Petitioner's eligibility rather than issuing a negative case action notice, pursuant to BAM 130. Therefore, MDHHS did not act in accordance with policy in denying Petitioner's FAP application for failure to submit verification of loss of employment with Employer.

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 MDHHS did not act in accordance with Department policy when it denied Petitioner's FAP application.

**DECISION AND ORDER**

Accordingly, MDHHS' 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. Reregister Petitioner's [REDACTED] 2023 FAP application;
2. Reprocess the application/recalculate the FAP budget for [REDACTED] 2023 ongoing in accordance with policy and consistent with this hearing decision;
3. If Petitioner is eligible for benefits, issue supplements to Petitioner for any FAP benefits she was eligible to receive but did not from [REDACTED] 2023 ongoing;
4. Notify Petitioner of its decision in writing.

DN/mp



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**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-Wayne-19-Hearings  
D. Sweeney  
M. Holden  
MOAHR  
BSC4

**Via-First Class Mail :**

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