



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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██████████, MI ██████████

Date Mailed: June 1, 2023
MOAHR Docket No.: 23-002388
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Linda Jordan

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 on May 22, 2023 via teleconference. Petitioner appeared and represented himself. Ashley Zielinski, Hearings Facilitator, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department).

ISSUE

Did MDHHS properly comply with the March 24, 2023 Hearing Decision issued by the Michigan Office of Administrative Hearings and Rules (MOAHR)?

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 March 24, 2023, Administrative Law Judge (ALJ) Christian Gardocki issued a hearing decision regarding MDHHS' decision to terminate Petitioner's Food Assistance Program (FAP) benefits due to being an ineligible student (Exhibit A, p. 6). The Hearing Decision found that Respondent was an in "student status" for the purposes of FAP because he was between 18-49 years-old and enrolled more than half time at a college or university degree program (Exhibit A, p. 7). The Hearing Decision reversed MDHHS' determination and ordered MDHHS to reprocess Petitioner's FAP eligibility beginning January 2023 subject to the finding that MDHHS failed to consider job training as an exception to student status and issue notice and benefit supplements, if any, in accordance with policy (Exhibit A, p. 9). MDHHS was required to comply with the order within ten days (Exhibit A, p. 9).

2. On March 31, 2023, MDHHS sent Petitioner a Verification Checklist (VCL), which stated “3380 mailed and due in 10 days for school verification” (Exhibit A, pp. 18-21). The VCL indicated that proofs were due by April 10, 2023 and instructed Petitioner to contact MDHHS if he had any questions or problems obtaining proofs (Exhibit A, p. 18).
3. On March 31, 2023, MDHHS sent Petitioner a Verification of Student Information form (DHS-3380), which stated that the form must be completed by the school and returned to MDHHS (Exhibit A, p. 22). The form required the school to answer questions regarding Petitioner’s enrollment status, the type of program he was enrolled in, the curriculum or major, whether Petitioner was participating in work study, the school term, the degree being pursued, the expected date of graduation, and whether Petitioner had attended all school days for the past 21 calendar days (Exhibit A, p. 23).
4. On April 17, 2023, Petitioner filed a Request for Hearing alleging that MDHHS failed to properly comply with the March 24, 2023 Hearing Decision (Exhibit A, pp. 3-4).

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. MDHHS administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

In this case, MDHHS terminated Petitioner’s FAP benefits after it determined that he was an ineligible student. On March 24, 2023, ALJ Gardocki issued a Hearing Decision reversing MDHHS’ action and ordering MDHHS to redetermine Petitioner’s eligibility for FAP benefits from January 2023 ongoing. The March 23, 2023 Hearing Decision was reversed in part because MDHHS failed to present evidence showing that it considered whether Petitioner was eligible for an exemption to the FAP rules regarding ineligible students. MDHHS testified that it complied with the Hearing Decision by requesting additional information from Petitioner and determined that Petitioner was ineligible for FAP benefits from January 2023 ongoing because he failed to return the requested information by the deadline.

For the purposes of FAP, beneficiaries are in student status if they are age 18 through 49 and enrolled half-time or more in a regular curriculum at a college or university that

offers degree programs. BEM 245 (April 2021), pp. 3-4. A person in student status may be eligible for FAP benefits if they meet one of the exemptions listed in BEM 245, pp. 4-6. Relevant to this case, a person in student status may be eligible for FAP if they are employed for at least 20 hours per week and paid for such employment and/or if they are participating in an on-the-job training program. *Id.* A person is considered to be participating in an on-the-job training program only during the period of time the person is being trained by employer. *Id.*

MDHHS must obtain verification when it is required by policy or information is unclear or incomplete. BAM 130 (January 2022), p. 1. Verification is usually required at application/redetermination and when a reported change affects eligibility or benefit level. *Id.* To obtain verification, MDHHS must tell the client what verification is required, how to obtain it and the due date. *Id.*, p. 3. The client must obtain the requested verification, but the local office must assist the client if they need and request help. *Id.*, p. 3. If neither the client nor the local office can obtain verification despite a reasonable effort, MDHHS must use the best available information. *Id.* If no information is available, MDHHS must use its best judgement. *Id.* MDHHS allows the client ten calendar days to provide the requested verification. *Id.*, p. 7. Verifications are considered timely if received by the date that they are due. *Id.* MDHHS sends a negative action notice when the client indicates a refusal to provide the requested verification, or the time period given on the VCL has lapsed and the client has not made a reasonable effort to provide it. *Id.* Before making a final determination regarding eligibility, MDHHS must give clients a reasonable opportunity to resolve any discrepancies between their statements and information from another source. *Id.*, p. 9.

After MOAHR issued the Hearing Decision, MDHHS sent Petitioner a VCL and Verification of Student Information form. The VCL stated “3380 mailed and due in 10 days for school verification” (Exhibit A, p. 21). The Verification of Student Information form is MDHHS form 3380. The VCL also informed Petitioner that the proofs were due by April 10, 2023 and that he should contact MDHHS if he had any questions or was experiencing problems obtaining the proofs (Exhibit A, p. 18). The Verification of Student Information form stated that Petitioner’s school must complete the form and it asked for information regarding his enrollment status, attendance, degree program, work study participation, degree being pursued and expected date of completion or graduation (Exhibit A, p. 23).

At the hearing, Petitioner testified that he received the Verification of Student Information form and contacted an official at his school to complete it. The school official indicated that Petitioner must contact a different person or department to complete the form. Petitioner further testified that he did not return the completed form to MDHHS by the deadline and that he did not contact MDHHS prior to the deadline for assistance. Petitioner further objected to the form, stating that the issue was not whether he was attending school but whether he was engaged in on-the-job training. Petitioner provided Monthly Fieldwork Verification Forms from the [REDACTED] to show that he was engaged in on-the-job training (Exhibits 1-13). Petitioner testified that he sent these documents to MDHHS on or about March 30, 2023. Petitioner further

alleged that MDHHS did not comply with the March 24, 2023 Hearing Decision because it did not make a determination regarding Petitioner's benefits within ten days from the date of the decision.

The March 24, 2023 Hearing Decision ordered MDHHS to reprocess Petitioner's eligibility for FAP benefits beginning January 2023 within ten day from the date of the order (Exhibit A, p. 15). The record shows that MDHHS began to reprocess Petitioner's eligibility for FAP benefits by sending the VCL and Verification of Student Information form to Petitioner on March 31, 2023, which was prior to the ten-day deadline. MDHHS was unable to make a final determination on Petitioner's eligibility for benefits because it required more information from Petitioner. In order to determine eligibility for FAP benefits, MDHHS frequently is required to request verification from the client, pursuant to BAM 130. Obtaining verification is an essential part of the process of determining eligibility and is required by policy. MDHHS must also allow clients ten calendar days to return the requested verifications. BAM 130, p. 7.

The record shows that MDHHS sent Petitioner a Verification of Student Information form and that Petitioner failed to return it by the deadline. Additionally, Petitioner testified that he did not attempt to contact MDHHS for help to complete the form prior to the deadline. Therefore, MDHHS properly determined that Petitioner was ineligible for FAP benefits because he failed or refused to provide the requested verification and the timeframe for providing the document had lapsed.

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 complied with the March 24, 2023 Hearing Decision and acted in accordance with Department policy when it determined that Petitioner was ineligible for FAP benefits.

DECISION AND ORDER

Accordingly, MDHHS decision is **AFFIRMED**.

LJ/tm



Linda Jordan
Administrative Law Judge

