



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: July 14, 2023  
MOAHR Docket No.: 23-003268  
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 July 6, 2021 via teleconference. Petitioner appeared and was represented himself. Eileen Kott, Family Independence Manager, and Arnesia Woods, Eligibility Specialist, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department).

**ISSUE**

Did MDHHS properly terminate Petitioner's Food Assistance Program (FAP) benefits?

**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 16, 2023, Petitioner filed an application for FAP benefits (Exhibit A, p. 16). Petitioner reported that he was homeless and had a disability (Exhibit A, pp. 13-17). Petitioner reported no earned income (Exhibit A, p. 18).
2. On March 28, 2023, MDHHS conducted a telephone interview with Petitioner (Exhibit A, p. 26). Petitioner reported that he receives Supplemental Security Income (SSI) and no other income (Exhibit A, p. 29).
3. On April 18, 2023, MDHHS sent Petitioner a Wage Match Client Notice regarding employment at ██████████ (Employer 1) (Exhibit A, p. 37). The form indicated that it must be completed by Employer and returned to MDHHS by May 18, 2023 (Exhibit A, p. 37).
4. On April 18, 2023, MDHHS sent Petitioner a Wage Match Client Notice regarding employment at ██████████ (Employer 2) (Exhibit A, p. 37). The form

indicated that it must be completed by Employer and returned to MDHHS by May 18, 2023 (Exhibit A, p. 37).

5. On May 9, 2023, MDHHS received an Employment Verification Form from [REDACTED] (Employer 3) (Exhibit A, p. 43).
6. On May 19, 2023, MDHHS sent Petitioner a Notice of Case Action indicating that his FAP benefits were terminated, effective June 1, 2023 ongoing (Exhibit A, p. 46). The reason for the closure was that Petitioner failed to verify or allow the Department to verify certain information (Exhibit A, p. 47).
7. On May 25, 2023, Petitioner submitted a Request for a Hearing to dispute the termination of his FAP benefits.

### **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 for failure to return requested verifications regarding earned income.

MDHHS is required to obtain verification when it is required by policy or information is unclear or incomplete. BAM 130 (January 2022), p. 1. To obtain verification, MDHHS must tell the client what verification is required, how to obtain it and the due date. *Id.*, p. 3. MDHHS is required to use a VCL to request verification from clients. *Id.* If the individual indicates the existence of a disability that impairs their ability to gather verifications and information necessary to establish eligibility for benefits, MDHHS must offer to assist the individual in the gathering of such information. *Id.*, p. 1. 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 evidence is available, MDHHS must use its best judgement. *Id.*

Here, MDHHS testified that it received information that Petitioner had earned income from Employers 1, 2, and 3 in the fourth quarter of 2022 that was previously not reported (Exhibit A, p. 34). No evidence was presented that Petitioner received any earned income after that time. It is unclear why MDHHS needed to verify income

information from 2022 to determine Petitioner's FAP eligibility for June 1, 2023 ongoing. When determining income eligibility for FAP, MDHHS is required to use the past 30 days of earned income if it appears to accurately reflect what is expected to be received in the benefit month. BEM 505 (October 2022), p. 6.

Petitioner credibly testified that he did not have any employment income when he submitted the March 16, 2023 FAP Application, and that he had not worked since the fourth quarter of 2022. Petitioner further testified that he was trying to comply with MDHHS' requests but that he was unable to contact the employers. Petitioner contacted his caseworker to explain the situation and to request help. MDHHS sent the employment verifications directly to the employers on Petitioner's behalf. However, only the employment verification from Employer 3 was returned.

The record shows that Petitioner was making a reasonable effort to comply with MDHHS' requests, that he requested help, and that MDHHS assisted Petitioner by sending the employment verification forms directly to the employers. However, policy provides that if neither the client nor MDHHS is able to obtain verifications despite a reasonable effort, MDHHS must use the best available information. BAM 130, p. 3. If no evidence is available, MDHHS must use its best judgment. *Id.* Because neither MDHHS nor the client was able to obtain the employment verification forms from Employers 1 and 2 despite a reasonable effort, the best available information was the information that MDHHS had from the data match regarding fourth quarter earnings.

Accordingly, MDHHS erred by closing Petitioner's FAP case based on failing to verify dated employment information that did not affect his current and ongoing benefit rate. MDHHS also erred by closing Petitioner's FAP case for failing to rely on the best available information after it was unable to obtain the employment verification forms from Employers 1 and 2.

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 the MDHHS did not act in accordance with Department policy when it terminated Petitioner's FAP benefits.

### **DECISION AND ORDER**

Accordingly, MDHHS' decision is **REVERSED**.

MDHHS 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. Reinstate Petitioner's FAP case, effective June 1, 2023 ongoing;
2. Redetermine Petitioner's FAP eligibility from June 1, 2023 ongoing;
3. Issue supplemental payments for any FAP benefits that Petitioner was entitled to receive but did not, from June 1, 2023 ongoing; and

4. Notify Petitioner of its decision in writing.



LJ/tm

**Linda Jordan**  
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**  
Dora Allen  
Wayne-Gratiot/Seven-DHHS  
4733 Conner Suite G 7 Lappin  
Detroit, MI 48215  
**MDHHS-Wayne-76-  
Hearings@michigan.gov**

**Interested Parties**

M. Holden  
D. Sweeney  
BSC4

**Via-First Class Mail :**

**Petitioner**

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