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GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
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MI [REDACTED]

Date Mailed: August 16, 2023
MOAHR Docket No.: 23-003933
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 August 7, 2023. Petitioner appeared and was unrepresented. [REDACTED], Petitioner's mother testified on behalf of Petitioner. The Michigan Department of Health and Human Services (MDHHS) did not participate despite being given at least 15 minutes from the scheduled hearing time to call.

ISSUE

The 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 May 2023, Petitioner was an ongoing recipient of FAP benefits.
2. On May 16, 2023, Petitioner electronically sent wage information to MDHHS.
3. On May 19, 2023, Petitioner submitted a Redetermination form to MDHHS reporting employment income.
4. On May 27, 2023, MDHHS requested proof of Petitioner's wages by June 5, 2023.
5. As of June 2023, MDHHS disqualified one of Petitioner's group members for failing to cooperate with child support for unknown reasons.

6. On June 22, 2023, MDHHS terminated Petitioner's FAP eligibility beginning July 2023 due to Petitioner failing to verify employment income. Petitioner's FAP eligibility was additionally affected by an unknown group member's failure to cooperate with obtaining child support.
7. On July 3, 2023, Petitioner requested a hearing to dispute the termination of FAP benefits.

CONCLUSIONS OF LAW

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 requested a hearing to dispute a termination of FAP benefits. A Redetermination form included in MDHHS's hearing packet suggested that Petitioner's FAP eligibility ended as part of a redetermination. A Notice of Case Action dated June 22, 2023, stated that Petitioner's FAP eligibility would end July 2023, in part, due to a failure to verify wages.

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 form, 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. 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.* FAP benefits stop at the end of the benefit period unless the redetermination process is completed and a new benefit period is certified. *Id.*, p. 3.

For all programs, MDHHS is to tell the client what verification is required, how to obtain it, and the due date. BAM 130 (July 2021) p. 3. MDHHS is to use the DHS-3503, Verification Checklist (VCL), to request verification. *Id.* MDHHS is to allow the client 10 calendar days (or other time limit specified in policy) to provide the verification that is requested. *Id.*, p. 7. MDHHS is to send 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. *Id.*

MDHHS's hearing packet included a VCL dated May 27, 2023, requesting proof of Petitioner's wages by June 5, 2023. Petitioner testified that he submitted 30 days of wage information to MDHHS on May 16, 2023. Petitioner's testimony was credible. Furthermore, Petitioner's testimony was unrebutted as MDHHS failed to participate in the hearing to argue otherwise. Given the evidence, Petitioner timely verified his employment income. Thus, MDHHS improperly terminated Petitioner's FAP eligibility due to a failure to verify employment income.¹ As a remedy, Petitioner is entitled to a reprocessing of FAP benefits beginning July 2023.²

The Notice of Case Action terminating Petitioner's FAP eligibility included a second reason for case closure: the failure of a group member to cooperate with obtaining child support. A group member's lack of cooperation may not have allowed case closure, but it may impact the reprocessing of Petitioner's FAP eligibility.

Generally, the Office of Child Support (OCS) determines cooperation for required support actions.³ BEM 255 (January 2023) p. 11. The custodial parent or alternative caretaker of children must comply with all requests for action or information needed to establish paternity and/or obtain child support on behalf of children for whom they receive assistance, unless a claim of good cause for not cooperating has been granted or is pending. *Id.* Cooperation is required in all phases of the process to establish paternity and obtain support. *Id.* p. 9. Cooperation includes all the following:

- Contacting the support specialist when requested.
- Providing all known information about the absent parent.
- Appearing at the office of the prosecuting attorney when requested.
- Taking any actions needed to establish paternity and obtain child support (including but not limited to testifying at hearings or obtaining genetic tests). *Id.*, p. 10.

For FAP, failure to cooperate without good cause results in disqualification of the individual who failed to cooperate. *Id.*, p. 14. The individual and his/her needs are removed from the FAP EDG for a minimum of one month. *Id.* The remaining eligible group members will receive benefits. *Id.*

MDHHS did not participate in the hearing to provide information about which members of Petitioner's benefit group were uncooperative.⁴ MDHHS's hearing packet additionally

¹ Petitioner's mother contended that the FAP termination was improper because the redetermination was premature. The finding that Petitioner timely verified wages renders Petitioner's mother's argument to be moot.

² If MDHHS does not possess Petitioner's submission, it should request the verification in accordance with its policy.

³ MDHHS specialists determine cooperation concerning unreturned support payments issued after the support certification date. *Id.*

⁴ The Michigan Office of Administrative Hearings and Rules recommends that administrative law judges contact OCS for additional evidence when MDHHS witnesses are unable to provide sufficient evidence of non-cooperation. In the present case, no such contact was attempted because MDHHS did not present any witnesses. Contacting OCS was thought to be an improper courtesy considering MDHHS's total lack of participation in the hearing.

provided no useful details about which members of Petitioner's group were uncooperative and why. Without any evidence to justify the child support disqualification, the disqualification must be halted.⁵ Thus, MDHHS will be ordered to reprocess Petitioner's FAP eligibility beginning July 2023, subject to all members being cooperative with obtaining child support.⁶

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

(1) Reprocess Petitioner's FAP eligibility beginning July 2023 subject to the following findings:

- a. Petitioner submitted proof of employment income to MDHHS on May 16, 2023;
- b. MDHHS failed to establish that any group members were uncooperative with obtaining child support; and

(2) Issue notice and supplements, if any, in accordance with policy.

The actions taken by MDHHS are **REVERSED**.

CG/mp



Christian Gardocki
Administrative Law Judge

⁵ Petitioner believed that his girlfriend was the person who was not cooperating. Petitioner testified that her lack of cooperation was caused by a fear for her safety. Petitioner's testimony was ultimately unnecessary due to MDHHS's failure to present evidence justifying the disqualification.

⁶ The evidence was not sufficient to reverse or delete the child support disqualification.

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 :

Interested Parties

MDHHS-Berrien-Hearings
D. Sweeney
M. Molden
MOAHR
BSC3

Via-First Class Mail :

