



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
SUZANNE SONNEBORN
EXECUTIVE DIRECTOR

MARLON I. BROWN, DPA
ACTING DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: September 12, 2023
MOAHR Docket No.: 23-004640
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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 September 5, 2023. Petitioner appeared and represented herself. Melissa Stanley, Hearings Facilitator, 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 May 27, 2023, Petitioner submitted an application for FAP benefits (Exhibit A, p. 7).
2. On June 30, 2023, MDHHS sent Petitioner a Notice of Case Action indicating that she was approved for FAP benefits for a household of two, beginning June 1, 2023 (Exhibit A, p. 14).
3. On July 5, 2023, MDHHS sent Petitioner a Verification Checklist (VCL) requesting verification of wages from the State of Michigan (Exhibit A, p. 22). The VCL indicated that Petitioner could return one of the following: last 30 days of check stubs, employer statement, DHS-38 Verification of Employment or DHS-3569

Agricultural Income Verification (Exhibit A, p. 22). The VCL indicated that proofs were due to MDHHS by July 17, 2023 (Exhibit A, p. 22).

4. On July 13, 2023, MDHHS sent Petitioner an Employment Verification Form with instructions to give the form to her employer to complete and return by July 24, 2023 (Exhibit A, p. 25).
5. On July 21, 2023, MDHHS sent Petitioner a Notice of Case Action indicating that Petitioner's FAP benefits would be terminated, beginning September 1, 2023 ongoing (Exhibit A, p. 30). The reason for the termination was that Petitioner failed to verify certain information (Exhibit A, p. 31).
6. On August 2, 2023, Petitioner requested a hearing to dispute MDHHS' determination (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. 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 from the State of Michigan.

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.* 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.*

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.* For FAP, if the client contacts MDHHS prior to the due date requesting an extension or assistance in obtaining

verifications, MDHHS is required to assist the client but may not grant an extension. *Id.* If the client returns the requested verifications, eligibility will be determined based on the compliance date, following subsequent processing rules. *Id.* Before determining program eligibility, MDHHS must give the client a reasonable opportunity to resolve any discrepancy between the client's statement and another source. *Id.*, p. 9.

Here, the record shows that MDHHS sent Petitioner a VCL requesting one of the following: last 30 days of check stubs, employer statement, DHS-38 Verification of Employment or DHS-3569 Agricultural Income Verification (Exhibit A, p. 22). The VCL indicated that proofs were due to MDHHS by July 17, 2023 (Exhibit A, p. 22). In response, Petitioner returned an employer statement dated May 18, 2023, confirming Petitioner's acceptance of employment with MDHHS in Saginaw County (Exhibit A, p. 28). MDHHS testified that this document was insufficient because it did not include her hours or when she would receive her first check. Petitioner testified that she was attempting to comply with MDHHS' information request and that she was unaware that the employer statement was insufficient. On July 13, 2023, MDHHS sent an Employment Verification Form to Petitioner, indicating that the form was due by July 24, 2023 (Exhibit A, p. 25). Despite the due date of July 24, 2023, MDHHS sent Petitioner a Notice of Case Action on July 21, 2023, indicating that her FAP benefits would be terminated (Exhibit A, p. 30). That notice stated that the employer statement was insufficient (Exhibit A, p. 30).

Based on the evidence presented, Petitioner was cooperating with MDHHS in order to verify her employment information and she complied with the VCL by sending an employer statement. Additionally, MDHHS determined that she failed to comply with its verification requests prior to the deadline on the Employer Verification Form. It did not inform Petitioner that the employer statement was insufficient until it had already determined that Petitioner failed to comply with its verification requests. This was not proper because MDHHS is required to tell clients precisely what information is required, how to obtain it and the due date.

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 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 September 1, 2023 ongoing;
2. Redetermine Petitioner's eligibility for FAP benefits, requesting additional information from Petitioner, if necessary, from September 1, 2023 ongoing;

3. Issue supplemental benefits to Petitioner for any FAP benefits that she was eligible to receive but did not, from September 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
Elisa Daly
Saginaw County DHHS
411 East Genesee
Saginaw, MI 48607
**MDHHS-Saginaw-
Hearings@michigan.gov**

Interested Parties

M. Holden
D. Sweeney
BSC2

Via-First Class Mail :

Petitioner

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