



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

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Date Mailed: September 26, 2023
MOAHR Docket No.: 23-004904
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 September 18, 2023 via teleconference. Petitioner appeared and represented himself. Mark Suarez, Eligibility Specialist, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department).

ISSUE

Did MDHHS properly deny Petitioner's application for 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 July 13, 2023, Petitioner applied for FAP benefits (Exhibit A, p. 8).
2. On July 17, 2023, MDHHS sent Petitioner a Verification Checklist (VCL) requesting proof of liquid assets and the last thirty days of income (Exhibit A, p. 22). The VCL indicated that proofs were due by July 27, 2023 (Exhibit A, p. 22).
3. On July 26, 2023, MDHHS conducted an eligibility interview with Petitioner (Exhibit A, pp. 15-21). Petitioner refused to answer questioned related to his assets (Exhibit A, p. 18).

4. On July 26, 2023, MDHHS sent Petitioner a Verification of Assets Form requesting information regarding his assets (Exhibit A, p. 25).
5. On August 9, 2023, MDHHS sent Petitioner a Notice of Case Action indicating that his application for FAP was denied, effective July 14, 2023 ongoing, for failure to verify information (Exhibit A, pp. 27-28).
6. On August 10, 2023, Petitioner requested a hearing to dispute the denial of his application for FAP (Exhibit A, pp. 4-6).

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 denied Petitioner's FAP application because he failed to provide the requested verifications regarding his assets by the deadline.

MDHHS is required to obtain verification when it is required by policy or information is unclear or incomplete. BAM 130 (January 2023), 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.

At the hearing, MDHHS testified that Petitioner refused to provide information regarding his assets because of a new law, which eliminated the asset test for FAP. Petitioner confirmed that he found the questioning to be invasive and unnecessary given the new law.

Petitioner is correct that the Michigan legislature passed a law to remove the asset test for FAP. Per 2023 Public Act (PA) 53, effective October 9, 2023, MCL 400.10d is amended to remove the asset test for FAP eligibility. 2023 PA 53. However, given the effective date of the law, the asset test was still in effect when Petitioner applied for FAP on July 13, 2023. Because the law was not yet in effect at the time of application, Petitioner was subject to an asset test for FAP, pursuant to BEM 400 (July 2023), p. 3. Thus, he was required to provide information to allow MDHHS to verify his asset eligibility. The record shows that MDHHS requested asset information from Petitioner and Petitioner refused to provide it. Therefore, MDHHS followed policy when it denied Petitioner's FAP application for failure to return the requested verifications and his indicated refusal to provide that information.

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 acted in accordance with Department policy when it denied Petitioner's FAP application.

DECISION AND ORDER

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



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

Yvonne Hill
Oakland County DHHS Madison
Heights Dist.
30755 Montpelier Drive
Madison Heights, MI 48071
**MDHHS-Oakland-DistrictII-
Hearings@michigan.gov**

Interested Parties

M. Holden
D. Sweeney
BSC4

Via-First Class Mail :

Petitioner

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