



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]
MI [REDACTED]

Date Mailed: November 9, 2023
MOAHR Docket No.: 23-006502
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 November 2, 2023. Petitioner appeared and represented herself. Morgan Loster, Eligibility Specialist, and Kimberly Calhoun, Family Independence Manager, 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 or about [REDACTED] 2023, Petitioner applied for FAP benefits.
2. On September 29, 2023, MDHHS sent Petitioner a Verification Checklist (VCL) requesting information regarding her pension from [REDACTED] [REDACTED] (Employer). The verification was due by October 9, 2023.
3. On October 3, 2023, MDHHS sent Petitioner a Notice of Case Action indicating that Petitioner's FAP application was denied, effective September 5, 2023 ongoing, because Petitioner requested that the benefits be stopped (Exhibit A, pp. 5-6).

4. On October 10, 2023, Petitioner requested a hearing regarding the denial of her FAP application (Exhibit A, p. 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 denied Petitioner's application for FAP because it alleged that Petitioner verbally requested to withdraw her application. Petitioner disputed MDHHS' assertion that she withdrew her application and testified that she was attempting to comply with MDHHS' requests for information by contacting Employer to obtain the necessary paperwork. Petitioner testified that when MDHHS asked if she wanted to submit a new application, she declined. She reiterated that she did not wish to withdraw her initial application.

A client may withdraw an application at any time before a determination is made by MDHHS. BAM 110 (October 2023), p. 20. To confirm the withdrawal, MDHHS sends a Notice of Case Action to the client. *Id.* 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.* 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 judgment. *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, MDHHS denied Petitioner's application for FAP on October 3, 2023, which was prior to the date that the verifications regarding Petitioner's pension were due. MDHHS testified that Petitioner verbally requested to withdraw her application. As described above, Petitioner disputed that she wanted to withdraw her application and said that she declined to submit a new application, which is perhaps what caused the misunderstanding. Based on the conflicting testimony on this issue, it appears that there was a misunderstanding and a breakdown of communication between Petitioner and MDHHS. Based on Petitioner's initial application for FAP, which indicates her desire to receive FAP benefits, her reasonable attempts to comply with MDHHS' verification requests, and her credible testimony, Petitioner has demonstrated that she did not intend to withdraw her initial application for FAP benefits.

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 Department did not act in accordance with Department policy when it denied Petitioner's FAP application.

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. Reregister and reprocess Petitioner's FAP application, submitted on or about September 5, 2023.
2. Determine Petitioner's eligibility for FAP, from September 5, 2023, ongoing.
3. Issue supplemental payments to Petitioner for an FAP benefits that she was eligible to receive, but did not, from September 5, 2023, ongoing; and

4. Notify Petitioner of its decision in writing.



LJ/nr

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

Denise Key-McCoggle
Wayne-Greydale-DHHS
27260 Plymouth Rd
Redford, MI 48239

**MDHHS-Wayne-15-Greydale-
Hearings@michigan.gov**

Interested Parties

Wayne 15 County DHHS
BSC4

M. Holden

N. Denson-Sogbaka

B. Cabanaw

MOAHR

Via-First Class Mail :

Petitioner

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