



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: January 2, 2024
MOAHR Docket No.: 23-007448
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 December 26, 2023. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Avery Smith, manager.

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 August 2023, Petitioner received ongoing FAP benefits as a simplified reporter with a benefit period certified through October 2023.
2. On September 2, 2023, Petitioner submitted to MDHHS a Semi-Annual Contact Report (SACR) which reported that Petitioner recently began residing with four other persons.
3. On October 10, 2023, MDHHS issued to Petitioner a Notice of Food Assistance (FAP) Closure warning that Petitioner's FAP eligibility would end November 2023 due to a failure to return a SACR to MDHHS by October 1, 2023.

4. On October 27, 2023, Petitioner requested a hearing to dispute the termination of FAP benefits.
5. On October 27, 2023, Petitioner submitted to MDHHS a Change Report listing his relationship to all household members.
6. On October 30, 2023, MDHHS mailed Petitioner a Verification Checklist (VCL) requesting information of Petitioner's relationship to household members.
7. As of December 26, 2023, MDHHS had not yet processed Petitioner's FAP eligibility beginning October 2023.

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. Exhibit A, pp. 3-5. A Notice of Food Assistance (FAP) Closure dated October 10, 2023, stated that Petitioner's FAP eligibility would end November 2023 due to Petitioner's failure to return a SACR. Exhibit A, pp. 29-30.

For all programs, a complete redetermination is required at least every 12 months. BAM 210 (November 2021) p. 3. A complete SACR must be submitted by groups with countable earnings and a 12-month benefit period. *Id.*, p. 11. Bridges, the MDHHS database, automatically sends an SACR at the beginning of the fifth month for cases assigned a 12-month benefit period. *Id.* If MDHHS does not receive the SACR by the 10th day of the sixth month, a Notice of Food Assistance (FAP) Closure is sent; this reminder notice explains that the client must return the SACR and all required verifications by the last day of the month, or the case will close. *Id.*, p. 14. If the SACR is not received by the last working day of the redetermination month, MDHHS is to close the case without further notice to the client. *Id.*

It was not disputed that Petitioner was an ongoing FAP benefit recipient with a benefit period certified through October 2023. Under the circumstances, Petitioner's due date to return a SACR to MDHHS would be October 10, 2023. As part of its hearing packet, MDHHS included Petitioner's SACR received by MDHHS on September 2, 2023. Exhibit A, pp. 11-15. MDHHS testimony acknowledged that Petitioner's SACR submission was timely and that a closure notice should not have been issued. The evidence established that MDHHS improperly terminated Petitioner's FAP eligibility beginning November 2023.

Despite Petitioner's timely SACR submission, MDHHS has still not processed Petitioner's FAP eligibility beginning November 2023. Petitioner's SACR reported that he recently began residing with four persons.¹ MDHHS contended that Petitioner's FAP eligibility is properly unprocessed because Petitioner failed to report his relationship to the four persons with which he resides.

For FAP redeterminations, verifications must be provided by the end of the current benefit period or within 10 days after they are requested, whichever allows more time. BAM 210 (October 2022) p. 17. A VCL should be sent after the redetermination interview for any missing verifications allowing 10 days for their return. *Id.*

MDHHS mailed Petitioner a VCL on October 30, 2023, requesting information on Petitioner's relationship with the four persons with which he resided. Exhibit A, pp. 6-7. Petitioner's due date to provide information was November 9, 2023. During the hearing, MDHHS testimony acknowledged that Petitioner returned a Change Report on October 27, 2023, listing Petitioner's relationship to all household members. MDHHS provided no other explanation for why Petitioner's FAP redetermination remained unprocessed.

Given the evidence, MDHHS improperly terminated Petitioner's FAP eligibility beginning October 2023.² As a remedy, MDHHS will be ordered to process Petitioner's FAP eligibility.

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 November 2023 subject to the finding that Petitioner timely submitted a SACR and timely verified his relationship to household members; and
- (2) Issue notice and supplements, if any, in accordance with all MDHHS policy.

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

CG/nr



Christian Gardocki
Administrative Law Judge

¹ Petitioner's testimony referred to the household members as his soon-to-be wife and her three children.

² Documentation of past FAP issuances concerningly listed January, February, July, September, and October 2023 as "pending". Exhibit A, p. 20. Because the months were not mentioned by Petitioner, it is presumed that FAP benefits were issued for those months and the "pending" status may refer to an update for those months, perhaps due to Petitioner's reported change in household members.

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
Linda Gooden
Oakland County Southfield District III
25620 W. 8 Mile Rd
Southfield, MI 48033
**MDHHS-Oakland-6303-
Hearings@michigan.gov**

Interested Parties
Oakland 3 County DHHS
BSC4
M. Holden
N. Denson-Sogbaka
B. Cabanaw
MOAHR

Via-First Class Mail :

Petitioner
[REDACTED], MI [REDACTED]