



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: December 19, 2023
MOAHR Docket No.: 23-007780
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 on December 13, 2023. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Valarie Foley, hearings facilitator.

ISSUES

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. Before August 2023, Petitioner reported to MDHHS that her daughter, [REDACTED] [REDACTED] (hereinafter, "Daughter"), worked at [REDACTED] State University (hereinafter, "Employer1")
2. As of August 2023, Petitioner was an ongoing recipient of FAP benefits with a benefit period certified through September 2023. Petitioner's benefit group did not include Daughter.
3. On September 6, 2023, Petitioner reported to MDHHS that in May 2023, Daughter returned to reside with Petitioner and that Daughter stopped working

for Employer1. Petitioner also reported that Daughter recently began working for [REDACTED] [REDACTED] Schol District (hereinafter, "Employer2").

4. On September 6, 2023, MDHHS mailed Petitioner a Verification Checklist (VCL) requesting proof of Daughter's stopped employment with Employer1 and wages in the last days from Employer1. Petitioner's due date was September 18, 2023.
5. On October 27, 2023, MDHHS terminated Petitioner's FAP eligibility beginning October 2023 due to a failure to verify Daughter's stopped income from Employer1.
6. On November 6, 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 BAM, BEM, and RFT.

Petitioner requested a hearing to dispute a termination of FAP benefits. Exhibit A, pp. 3-4. MDHHS did not present written notice of closure; instead, MDHHS testified that a Notice of Case Action dated October 27, 2023, stated Petitioner's FAP eligibility ended October 2023 due to a failure to verify stopped employment income. It was not disputed that Petitioner's FAP eligibility ended as part of a benefit redetermination.

During a redetermination interview dated September 6, 2023, Petitioner reported to MDHHS that Daughter recently began residing with her and they ate and prepared food together. Petitioner additionally reported that Daughter stopped working for Employer1 in May 2023 and that she recently began employment with Employer2. In response, MDHHS mailed Petitioner a VCL requesting 30 days of income from Employer1 and proof of stopped employment concerning Employer1. Exhibit A, pp. 5-7.

MDHHS is to verify employment income at redetermination. BEM 501 (July 2022) p. 10. MDHHS is to verify income that stopped within the 30 days prior to the application date or while the application is pending before certifying the benefits. BEM 505 (October 2023) p. 14. If eligibility fails due to lack of verification of stopped income, a client who reapplies, does not need to verify stopped income if it has been over 30 days. *Id.*

For all programs, MDHHS is to tell the client what verification is required, how to obtain it, and the due date. BAM 130 (January 2023) 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.*

Much of the hearing was spent determining what documents Petitioner submitted to MDHHS and what documents that MDHHS received. It was not disputed that Petitioner submitted to MDHHS on October 2, 2023, documentation listing Daughter's hire date and first pay date with Employer2. MDHHS also testified that Petitioner submitted on October 8, 2023, a pay stub which failed to list Daughter's name or gross income. MDHHS acknowledged receiving documentation from Petitioner on October 18, 2023, which included a completed New Hire Client Report and one pay stub from Employer2; Petitioner testified she submitted copies of three pay stubs that date. As it happened, Petitioner's submissions were not relevant.

Based on MDHHS's own testimony, it had no reason to believe that Daughter received wages from Employer1 in the 30 days before Petitioner's reporting of Daughter's return to the home. MDHHS policy specifically states MDHHS need not verify employment that stopped more than 30 days before the application date; the same policy presumably applies to a reporting of a group member who stopped employment more than 30 days before being added to a benefit group. If income stopped more than 30 days before the addition of the member, MDHHS should not need to verify the income stoppage. Applied to the present case, MDHHS had no need to request verification of Daughter's stopped income from Employer1 because the stoppage occurred more than 30 days before the reporting date.¹

Given the evidence, MDHHS failed to establish that it properly required proof of Daughter's stopped wages with Employer1. Thus, MDHHS improperly terminated Petitioner's FAP eligibility due to a failure to verify stopped wages from Employer1. As a remedy, Petitioner is entitled to a reprocessing of FAP eligibility.²

¹ MDHHS may have a basis to request verification of income from Employer2; however, MDHHS did not allege that a failure to verify wages from Employer2 caused FAP benefit termination. The issue is moot as MDHHS testimony acknowledged that Petitioner returned wage verification for Employer2 on October 18, 2023: several days before MDHHS terminated Petitioner's FAP eligibility.

² Petitioner should be aware that a reprocessing of eligibility does not guarantee eligibility. Petitioner testified that Daughter received ongoing wages from Employer2 which may exceed program limits.

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 benefits. 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 October 2023 subject to the finding that MDHHS failed to establish it properly requested verification of Daughter's stopped income from Employer1; and
- (2) Issue notice and supplements, if any, in accordance with policy.

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

CG/nr



Christian Gardocki
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
Susan Noel
Wayne-Inkster-DHHS
26355 Michigan Ave
Inkster, MI 48141
**MDHHS-Wayne-19-
Hearings@michigan.gov**

Interested Parties
Wayne 19 County DHHS
BSC4
M. Holden
N. Denson-Sogbaka
B. Cabanaw
MOAHR

Via-First Class Mail :

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]
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