



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 18, 2023
MOAHR Docket No.: 23-007829
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. [REDACTED] [REDACTED] Petitioner's mother, testified on Petitioner's behalf. 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. As of August 2023, Petitioner was an ongoing recipient of FAP benefits with a benefit period certified through September 2023.
2. On September 5, 2023, during a redetermination interview, Petitioner reported receiving \$ [REDACTED] - \$ [REDACTED] monthly from his mother.
3. On September 5, 2023, MDHHS mailed Petitioner a Verification Checklist (VCL) requesting proof by September 15, 2023, of Petitioner's mother's income.

4. On September 7, 2023, Petitioner's mother dropped off documentation to MDHHS verifying she gives Petitioner monthly income.
5. On October 11, 2023, MDHHS terminated Petitioner's FAP eligibility due to Petitioner's alleged failure to verify unearned income.
6. On November 8, 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. 3-5. A Notice of Case Action dated October 11, 2023, stated that Petitioner's FAP eligibility ended October 2023 due to a failure to verify unearned income. Exhibit A, pp. 38-42. It was not disputed that Petitioner's alleged failure occurred as part of a FAP benefit redetermination.

MDHHS is to verify unearned income at redetermination. BEM 503 (January 2023) p. 43. For FAP benefits, unearned income may include donations from persons outside of the benefit group.¹ *Id.* p. 11.

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.*

During an interview on September 5, 2023, Petitioner reported to MDHHS receiving \$█ to \$█ in monthly income from his mother. Exhibit A, pp. 23-29. In response, MDHHS mailed Petitioner a VCL requesting documentation verifying the income by September 15, 2023. Exhibit A, pp. 20-21. MDHHS testified it did not receive documentation from Petitioner's mother until October 23, 2023: after Petitioner reapplied for FAP benefits. Exhibit A, p. 37. MDHHS also testified that Petitioner's Electronic Case File (ECF) listed

¹ MA categories include SSI-related and MAGI (see BEM 105). Donations are not countable for MA benefits issued under MAGI methodology. As an individual without minor children over the age of 65 years, Petitioner is only potentially eligible for MA under SSI-related MA categories.

no submissions from the VCL mailing date through [REDACTED] [REDACTED] 2023: Petitioner's reapplication date.

Petitioner's mother testified she personally dropped off the requested income document at the local MDHHS office on September 7, 2023. She testified that she handed the document to an unspecified woman at the Inkster MDHHS office who date stamped the document and told her that nothing else was needed. MDHHS testimony acknowledged that the testimony of Petitioner's mother was plausible. Also, Petitioner's mother's testimony of a submission on September 7, 2023, was consistent with Petitioner's written hearing request which stated the same.²

In evaluating each side's credibility, Petitioner's mother presented first-hand testimony; MDHHS did not. Given the evidence, it is found that Petitioner's mother timely submitted unearned income documentation to MDHHS on September 7, 2023. Thus, MDHHS timely received Petitioner's verification. Accordingly, it is found that MDHHS improperly terminated Petitioner's FAP eligibility beginning October 2023.

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 October 2023 subject to the finding that MDHHS timely received unearned income documentation on September 7, 2023; 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

² MDHHS's credibility was also not bolstered by its failure to timely process Petitioner's application dated October 16, 2023. MDHHS has 30 days, at most, to process FAP benefit applications (see BAM 115). After nearly two months, MDHHS had not processed Petitioner's application.

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], MI [REDACTED]