

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 21, 2023
MOAHR Docket No.: 23-007898
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 December 12, 2023 via teleconference. Petitioner appeared and represented herself. Shana Bush, Lead Worker, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department).

ISSUE

Did MDHHS properly terminate Petitioner's 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. Petitioner was an ongoing recipient of FAP benefits.
2. On September 22, 2023, Petitioner returned a redetermination packet for FAP.
3. On October 5, 2023, MDHHS completed an eligibility interview with Petitioner (Exhibit A, p. 7). Petitioner reported that she worked for the [REDACTED] (Employer) during the summer and that the employment had ended (Exhibit A, p. 7).
4. On October 5, 2023, MDHHS sent Petitioner a Verification Checklist (VCL) requesting proof of assets and verification of employment income (Exhibit A, pp. 9-10). The VCL indicated that proofs were due by October 15, 2023 (Exhibit A, p. 8).

5. On October 5, 2023, MDHHS sent Petitioner an Employment Verification Form to be completed by Employer (Exhibit A, p. 12). The form indicated that the due date was October 16, 2023 (Exhibit A, p. 12).
6. October 18, 2023, MDHHS sent Petitioner a Notice of Case Action indicating that her FAP benefits would be terminated, effective November 1, 2023 ongoing, for failure to provide verification regarding loss of employment (Exhibit A, pp. 18-19).
7. On October 26, 2023, Petitioner requested a hearing to challenge the termination of her FAP benefits (Exhibit A, pp. 3-5).

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 terminated Petitioner's FAP benefits for failure to return proof of her loss of employment from Employer.

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, Petitioner credibly testified that she was attempting to comply with MDHHS' verification requests but that she was unsure about what documentation was needed. Petitioner further testified that she informed MDHHS that the job at Employer was seasonal. It was a summer camp that ended when the children returned to school. The VCL that MDHHS sent to Petitioner requested asset verification and verification of employment income (Exhibit A, p. 10). No evidence was presented regarding the need for asset verification at the hearing.

Petitioner testified that her employment at Employer ended September 9, 2023. Petitioner submitted paystubs to MDHHS from Employer; however, MDHHS testified that these documents were insufficient because Employer's name was not listed on the documents. Petitioner testified that she sent MDHHS the documents that she had. No evidence was presented to show that MDHHS informed Petitioner that the paystubs were inadequate. Regarding the Verification of Employment Form for Employer, Petitioner testified that she contacted Employer to complete the form prior to the due date. Employer told her that it needed to be completed by a different office, which caused a delay. Petitioner testified that she informed Employer of the due date on the form. However, Employer did not return the form to MDHHS until October 23, 2023.

The record shows that Petitioner was attempting to comply with MDHHS' verification requests to the best of her ability and that the delay was caused by a third party, which was beyond Petitioner's control. Additionally, MDHHS failed to properly inform Petitioner regarding what documentation that was needed to verify the end of her employment at Employer, because the VCL requested verification of employment income, and not proof of loss of employment, specifically.

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 did not act in accordance with Department policy when it terminated Petitioner's FAP benefits.

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. Reinstate Petitioner's FAP case and redetermine Petitioner's eligibility for FAP benefits from November 1, 2023 ongoing;
2. Issue supplemental payments to Petitioner for any FAP benefits that she was eligible to receive, but did not, from November 1, 2023 ongoing; and

3. Notify Petitioner of its decision in writing.



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

Vivian Worden
Macomb County DHHS Mt. Clemens
Dist.
44777 Gratiot
Clinton Township, MI 48036
**MDHHS-Macomb-12-
Hearings@michigan.gov**

Interested Parties

M. Holden
N. Denson-Sogbaka
B. Cabanaw
BSC4

Via-First Class Mail :

Petitioner

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██, MI ██████████