



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  
DIRECTOR



Date Mailed: March 6, 2024  
MOAHR Docket No.: 24-000738  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Caralyce M. Lassner**

### **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 by telephone on February 29, 2024. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) did not appear. The Department provided a hearing packet, consisting of sixteen (16) pages, in advance of the hearing and Petitioner agreed to its admission as an exhibit. The packet was admitted into evidence as Exhibit A.

### **ISSUE**

Did the Department properly deny Petitioner's Food Assistance Program (FAP) application due to Petitioner's failure to provide verification documents?

### **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 applied for FAP benefits in [REDACTED] 2023 for herself and three (3) children. One of Petitioner's child is [REDACTED] (TA). (Exhibit A, pp. 1, 6).
2. Petitioner reported TA had a loss of employment prior to Petitioner's FAP application.
3. On December 18, 2023, the Department sent Petitioner a Verification Checklist (VCL) with a due date of December 28, 2023, requiring verification of TA's loss of employment with [REDACTED] (Employer). It also sent an Employment Verification

Form (EVF) to Petitioner, directed to Employer, with the VCL. (Exhibit A, pp. 6 – 11).

4. Sometime between December 18 and December 24, 2023, TA completed the EVF to the best of her ability and Petitioner returned the EVF to the Department. TA was unable to obtain verification of her loss of employment directly from Employer and Petitioner advised the Department of this.
5. On or about January 4, 2024, the Department notified Petitioner her FAP application was denied. (Exhibit A, p. 1).
6. On or about January 22, 2024, Petitioner submitted a Request for Hearing to the Department. (Exhibit A, p. 1).

### **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. The Department (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-119b, and Mich Admin Code, R 400.3001-.3011.

Petitioner submitted a request for hearing to the Department on January 22, 2024 to dispute denial of her FAP application based on a failure to return required verifications. The Department did not appear at the hearing. Therefore, this decision is based on Petitioner's testimony and the documents in the hearing packet that the Department submitted prior to the hearing and which Petitioner agreed to have admitted into evidence as Exhibit A. The hearing summary submitted by the Department asserts that Petitioner had failed to return required verifications regarding TA's end of employment. (Exhibit A, p. 1).

The Department is required to obtain verification when it is required by policy or information is unclear or incomplete. BAM 130 (October 2023), p. 1. Verification is usually required at application and when a reported change affects eligibility or benefit level. BAM 130, p. 1; BEM 500 (April 2022), pp. 13 – 14; BEM 505 (October 2023), p. 14. For the FAP program, the Department must also verify income that stopped within the 30 days prior to the application date or while the application is pending certification. BEM 505, p. 14. To obtain verification, the Department must tell the client what verification is required, how to obtain it and the due date. BAM 130, p. 3. The client must obtain the requested verification, but the local office must assist the client if they

need and request help, and if neither the client nor the local office can obtain verification despite a reasonable effort, the Department must use the best available information. BAM 130, p. 3. Additionally, the Department is not to deny FAP benefits based solely on an employer or other source refusing to verify income. BAM 500, p. 14. Verifications may include client statements, electronic verification from a reliable source, such as Equifax/Work Number, or a consolidated inquiry. BEM 500, p. 15. If no evidence is available, the Department must use its best judgement. BAM 130, p. 3.

The Department allows the client ten calendar days to provide the requested verification and verifications are considered timely if received by the date that they are due. BAM 130, p. 7. If verifications are not received, the Department 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. BAM 130, p. 7.

In this case, Petitioner credibly testified at hearing that she communicated with the Department regarding TA's inability to obtain Employer's cooperation in completing the EVF, and completed and submitted the EVF to the best of her abilities sometime between December 18 and December 24, 2023, prior to the deadline on the verification checklist. The Department did not appear at the hearing to testify regarding the verification issue or to rebut Petitioner's credible testimony. No evidence was introduced to show that Petitioner failed to make a reasonable effort with the Department's verification request. Based on the limited record, the Department failed to satisfy its burden of proving that it acted in accordance with Department policy when it denied Petitioner's 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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Petitioner's FAP application based on a failure of Petitioner to provide verification documents.

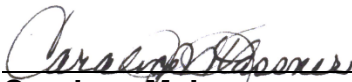
**DECISION AND ORDER**

Accordingly, the Department's decision is **REVERSED**.

THE DEPARTMENT 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. Redetermine Petitioner's eligibility for FAP benefits from the date of application in December 2023 ongoing;
2. If Petitioner is eligible for any supplemental FAP benefits, issue supplemental payments to Petitioner for any FAP benefits she was eligible to receive but did not, from the date of application in December 2023 ongoing; and
3. Notify Petitioner of its decision in writing.

CML/ml

  
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**Caralyce M. Lassner**  
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**  
Tracy Felder  
Wayne-Southwest-DHHS  
2524 Clark Street  
Detroit, MI 48209  
**MDHHS-Wayne-41-Hearings@michigan.gov**

**Interested Parties**  
BSC4  
M Holden  
B Cabanaw  
N Denson-Sogbaka

**Via First Class Mail:**

**Petitioner**  
[REDACTED]  
[REDACTED] MI [REDACTED]