



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

[REDACTED], MI [REDACTED]

Date Mailed: March 22, 2024
MOAHR Docket No.: 24-001326
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 March 13, 2024. Petitioner testified and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Priya Johnson, supervisor.

ISSUE

The issue is whether MDHHS properly denied 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. On [REDACTED] 2023, Petitioner applied for FAP benefits.
2. On January 17, 2024, MDHHS mailed Petitioner a Verification Checklist (VCL) requesting proof of self-employment by January 29, 2024. The VCL included a Self-Employment and Expense Statement.
3. On January 30, 2024, MDHHS denied Petitioner's FAP application due to Petitioner's failure to timely return verification of self-employment.

4. On February 7, 2024, Petitioner requested a hearing to dispute the denial of FAP benefits. Petitioner also submitted to MDHHS proof of self-employment income and expenses.

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.

Petitioner requested a hearing to dispute a denial of FAP benefits. Exhibit A, pp. 3-5. Petitioner applied for FAP benefits on November 8, 2023. A Notice of Case Action dated January 30, 2024, stated that Petitioner was denied FAP benefits due to a failure to verify self-employment income. Exhibit A, pp. 6-9.

MDHHS is to verify self-employment income at application. BEM 502 (October 2019) p. 6. 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.*

For FAP benefit applications not eligible for expedited processing, MDHHS is to process the application and issue FAP benefits within 30 calendar days of the application date. BAM 115 (January 2024) p. 16. When the 30-day standard of promptness (SOP) is not met and the benefit group is at fault for the delay, the begin date is the date the group meets all application requirements. *Id.*, p. 28. When the 30-day SOP is met, or it is not met but the group is not at fault for the delay, the begin date is either of the following:

- The application date if the group is eligible for the application month (even if proration causes zero benefits).
- The first day of the month after the application month if that is when the group becomes eligible. *Id.*

The proper mailing and addressing of a letter creates a presumption of receipt. That presumption may be rebutted by evidence. *Stacey v Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976).

On January 17, 2024, MDHHS mailed Petitioner a Verification Checklist requesting proof of Petitioner's self-employment by January 29, 2024. Exhibit A, pp. 10-12. The VCL included a Self-Employment and Expense Statement. Exhibit A, pp. 13-14. It was

not disputed that the VCL included Petitioner's mailing address as verified during the hearing. The evidence established a proper mailing of and addressing of the VCL.

Petitioner testified he did not receive the VCL until January 30, 2024: one day after verifications were due. Petitioner's testimony was consistent with his written hearing requested which stated the same. Exhibit A, p. 4. Petitioner not being neglectful in returning verification is also consistent with his undisputed testimony that he requested a hearing shortly after receiving the denial notice and submitted proof of self-employment on the same date. Given the evidence, which included Petitioner's credible testimony, it is found that Petitioner did not receive the VCL until January 30, 2024.¹

Even if Petitioner did not receive the VCL after the due date, MDHHS's actions caused Petitioner's application to be unprocessed after 60 days. MDHHS is directed to proceed as follows when a client completes the application process after denial but within 60 days after the application date:

- If a client completes the application process by the 30th day, MDHHS is to register the application for the original application date and process accordingly.
- If a client completes the application process between the 31st and 60th days after the application date, the application is to be registered for the date that the client completed the application process. BAM 115 (January 2024) p. 24.

By denying Petitioner's application, MDHHS functionally contends that Petitioner's failure to verify was the fault of MDHHS not meeting its SOP of 30 or even 60 days. Notably, 70 days passed after Petitioner applied for benefits before MDHHS sent Petitioner a VCL.² By not even starting to process the application within 60 days, MDHHS is wholly at fault for the delay in not meeting its SOP.

Given the evidence, Petitioner was not at fault for failing to timely return self-employment income verification. Thus, MDHHS improperly denied Petitioner's FAP benefit application based on Petitioner's alleged failure to timely verify.

¹ Petitioner's testimony also suggested he has recurrent problems in receiving mail. For example, Petitioner testified he received notice of the pre-hearing conference until it was too late to attend and that he did not receive a hearing packet at all.

² Petitioner testified he contacted MDHHS numerous times during those 70 days in an effort to get his application processed.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly denied Petitioner's FAP application. It is ordered that MDHHS commence the following actions within 10 days of the date of mailing of this decision:

- (1) Reregister Petitioner's FAP benefit application dated [REDACTED] 2023;
- (2) Reprocess Petitioner's application subject to the finding that MDHHS was at fault for failing to meet its standard of promptness; and
- (3) 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

Yaita Turner
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]
[REDACTED]
[REDACTED], MI [REDACTED]