



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]  
[REDACTED], MI [REDACTED]

Date Mailed: April 23, 2024  
MOAHR Docket No.: 24-002854  
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 April 17, 2024. Petitioner appeared and represented himself. The Department of Health and Human Services (Department) was represented by Dania Ajami, Lead Eligibility Specialist.

### **ISSUE**

Did the Department properly deny Petitioner's application for 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. On [REDACTED] [REDACTED] 2023, the Department received Petitioner's application for FAP assistance for his household of five. Petitioner disclosed the household's income to be comprised of self-employment "other" for Petitioner and Supplemental Security Income (SSI) for one of Petitioner's sons, [REDACTED] (MS). (Exhibit A, pp. 8 – 15).
2. On December 27, 2023, the Department sent Petitioner a Verification Checklist (VCL), which requested verification of Petitioner's self-employment income be provided to the Department by January 8, 2024. (Exhibit A, p. 16).

3. On January 17, 2024, the Department generated, and Petitioner completed, Self-Employment Income and Expense Statements (DHS-431) for October, November, and December 2023. Each completed statement disclosed Petitioner's income, listed no expenses, and was supported by a receipt. (Exhibit A, pp. 19 – 27).
4. On January 19, 2024, the Department sent Petitioner a Notice of Case Action (NOCA) denying his application for FAP based on failure to return verification of self-employment income. (Exhibit A, pp. 28 – 31).
5. On March 11, 2024, the Department received Petitioner's request for hearing in which Petitioner disputes the Department's denial of his FAP application. (Exhibit A, pp. 4 – 6).

### **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 requested a hearing to dispute the Department's denial of his FAP application. The Department denied Petitioner's FAP application for failure to return income verification documents.

When an individual applies for FAP benefits, the Department is responsible for determining the individual's eligibility. BAM 105 (October 2023), pp. 17 – 18. The Department must process FAP non-expedited applications within 29 days and, if the individual is eligible, FAP benefits must be available by the 30<sup>th</sup> day after application. BAM 115 (January 2023), p. 16. As part of the application process, the Department must complete an interview of the applicant and verify all non-excluded income of the applicant and members of the FAP group. BAM 115, pp. 17 – 19; BEM 500 (April 2022), pp. 13; see also BAM 130 (October 2023), p. 1.

The purpose of an interview for FAP benefits is, among other things, to gather information and examine the circumstances directly related to determining the group's eligibility and benefits, including resolving unclear or inconsistent information provided on the application. BAM 115, p. 17. Interviews for FAP applicants must be held by the 20<sup>th</sup> day after the application date to allow the client at least 10 days to provide

verifications by the 30<sup>th</sup> day. BAM 115, pp. 22, 23. BAM 115 implies, though does not require, that interviews should be conducted prior to a VCL being sent, in order to identify what verifications are needed.

The Department is required to obtain verification when it is required by policy or information is unclear or incomplete. BAM 130, p. 1. Verification is usually required at application and when a reported change affects eligibility or benefit level. BAM 130, p. 1; BEM 500, pp. 13 – 14; BEM 505 (October 2023), 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 if an individual is unable to verify self-employment income. BEM 502, pp. 6 – 7.

In this case, Petitioner applied for benefits on Thursday, [REDACTED] 2023<sup>1</sup>. Petitioner reported income from self-employment “other” for Petitioner, and SSI income for MS on his application. (Exhibit A, p. 13). The Department sent Petitioner a VCL the next business day<sup>2</sup>, Tuesday, December 27, 2023, and prior to interviewing him. (Exhibit A, p. 16). The VCL requested verification of Petitioner’s self-employment income by January 8, 2024, and stated the verification could be in the form of recent business receipts to date, recent accounting or other business records to date, or a recent income tax return. (Exhibit A, p. 16). The Department testified that no additional forms were enclosed with the VCL.

For purposes of the FAP program, self-employed individuals may verify income and expenses with a completed Self-Employment Income and Expense Statement<sup>3</sup> (SE statement) with receipts in support of the claimed expenses, if any. BEM 502 (October 2019), p. 8. Initially, the Department did not provide Petitioner an SE statement to complete.

The Department testified that Petitioner was interviewed on January 17, 2024. (Exhibit B, pp. 1 – 7). The Department inaccurately recorded, on its interview guide, that no one in the household has a disability and the only income to the household is self-employment income of \$600 – \$750 per month, that Petitioner earns from doing home repairs (Exhibit B, pp. 1 – 7), ignoring MS’s disability and his receipt of SSI, it sought verification of Petitioner’s self-employment. The interview guide does not reflect that the Department had concerns regarding Petitioner’s expenses from self-employment; however, at the hearing, the Department testified that one of the reasons for denial of

---

<sup>1</sup> Petitioner’s application was submitted through MiBridges after business hours on Wednesday, [REDACTED] 2023. Applications received after business hours and on holidays are deemed to be received on the next business day. BAM 110, p. 6.

<sup>2</sup> The Department was closed, in observation of State of Michigan holidays, on Friday, December 22, 2023 and Monday, December 26, 2023.

<sup>3</sup> Form DHS-431.

Petitioner's FAP application was that Petitioner did not provide proof of the self-employment expense amount he disclosed on his application. (Exhibit A, pp. 2, 12 – 13).

On the same day it interviewed Petitioner, the Department also generated an SE statement for Petitioner to complete. (Exhibit A, pp. 19). Petitioner completed a separate SE statement each for October, November, and December 2023, including receipts of his income in support of those statements, and submitted all items to the Department the same day, January 17, 2024. (Exhibit A, pp. 19 – 27). The SE statements reported income of \$600 for October, \$600 for November, and \$750 for December, and no expenses; and the income receipts provided by Petitioner supported the statements and were consistent with the information on Petitioner's application. Petitioner confirmed these income amounts during the hearing. During the hearing, Petitioner testified that he is an individual who provides general handyman services when solicited to do so. In essence, Petitioner engages in gig work. Petitioner testified that he is not operating a formal business and does not work when his health prevents him from doing so<sup>4</sup>. Petitioner also testified that MS's SSI income is used to meet the household's housing and other necessities when Petitioner does not have income in a given month.

The Department testified that it denied Petitioner's application for FAP assistance because Petitioner failed to return verification of self-employment income. (Exhibit A, pp. 28 – 31). However, Petitioner did return verification of self-employment income. In support of its denial of Petitioner's application, the Department alleged Petitioner's proof of self-employment income was lacking because the receipts did not specify "home repair services" and that Petitioner did not provide the Department with the name of his business. (Exhibit A, p. 2). Policy does not require a self-employed individual to participate in his self-employment activities under a business name (BEM 502, pp. 1 – 9) and Petitioner's lack of a business name does not support the Department's actions. Policy also does not require that receipts produced by an individual, to verify his self-employment income be of a particular form or format.

The Department also testified that one of the reasons for denial of Petitioner's FAP application was that Petitioner did not provide proof of the self-employment expense amount he disclosed on his application. (Exhibit A, pp. 2, 12 – 13). While the Department didn't ask Petitioner any questions about his expenses during the interview, the SE statement specifically instructs individuals that if they wish to claim actual expenses, they must attach business receipts for those expenses. For purposes of FAP, allowable expenses are either a) 25% of the total proceeds, or b) actual expenses if the client chooses to claim and verify the expenses, whichever is higher; and when a self-employed individual does not provide verification of expenses, the Department defaults to 25% of the total proceeds. BEM 502, p. 3. By not claiming or returning any receipts for business expenses to the Department with his completed SE statements,

---

<sup>4</sup> Petitioner testified that he spent a week in the hospital in January 2024 and did not have any handyman income for the month of January.

Petitioner elected to accept the standard 25% deduction for business expenses allowed by policy. During the hearing, the Department cited the portion of Petitioner's application where Petitioner reported \$600 in income and \$1800 in expenses (Exhibit A, p. 13) as conflicting with his SE statement; however, it acknowledged that policy provides the appropriate deduction amount when no expenses are claimed and when receipts for actual expenses are not provided.

Policy states that to verify self-employment income, one may produce a) income tax returns, b) an SE statement with income receipts to support claimed income, or c) an SE statement without receipts. BEM 502, p. 7; BAM 130, pp. 1, 6. Petitioner completed SE statements for the three months prior to his application and provided receipts evidencing the reported income in support for each month at issue. Petitioner did not provide any receipts for business expenses, and thus accepted the 25% deduction for business expenses. The Department did not act in accordance with policy when it denied Petitioner's FAP application for failure to return verification of self-employment income.

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 did not act in accordance with Department policy when it denied Petitioner's application for FAP on January 19, 2024.

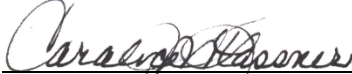
### **DECISION AND ORDER**

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, utilizing the information from Petitioner's SE statements, from the date of the [REDACTED] 2023 application ongoing;
2. If Petitioner is eligible for any supplemental FAP benefits, issue supplemental payments to Petitioner for any FAP benefits he was eligible to receive but did not, from [REDACTED] 2023 ongoing; and
3. Notify Petitioner of its decision in writing.

CML/nr



---

**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**  
Caryn Jackson  
Wayne-Hamtramck-DHHS  
12140 Joseph Campau  
Hamtramck, MI 48212  
**MDHHS-Wayne-55-  
Hearings@michigan.gov**

**Interested Parties**  
Wayne 55 County DHHS  
BSC4  
M. Holden  
N. Denson-Sogbaka  
B. Cabanaw  
MOAHR

**Via-First Class Mail :**

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