



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: May 10, 2024  
MOAHR Docket No.: 24-003494  
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 line on May 1, 2024. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Avery Smith, supervisor.

### **ISSUE**

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 January 2024, Petitioner was an ongoing recipient of FAP benefits as the only group member and a benefit period certified through February 2024.
2. As of January 2024, Petitioner was an aged individual with no employment income.
3. On January 4, 2024, MDHHS mailed Petitioner a Redetermination form (DHS-1010) stating Petitioner was to complete and return the form to MDHHS by January 24, 2024.

4. On an unspecified date before January 24, 2024, Petitioner timely returned a Redetermination form to MDHHS.
5. Beginning March 2024, Petitioner's FAP eligibility ended.
6. On March 20, 2024, Petitioner verbally requested a hearing to dispute the termination of FAP benefits and reported he timely submitted a Redetermination form.

### **CONCLUSIONS OF LAW**

The Food Assistance Program [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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner verbally requested a hearing to dispute a termination of FAP benefits.<sup>1</sup> Exhibit A, p.3. MDHHS testified that Petitioner's FAP eligibility ended March 2024 due to Petitioner's failure to timely return a Redetermination form.<sup>2</sup>

For all programs, a complete redetermination is required at least every 12 months. BAM 210 (January 2024) p. 3. Bridges, the MDHHS database, automatically sends benefit recipients a DHS-1010, Redetermination form, three days prior to the negative action cut-off date in the month before the redetermination is due. *Id.*, p. 8. For FAP benefits, the redetermination process begins when the client files a DHS-1010 or other acceptable substitute form. *Id.*, p. 3. FAP benefits stop at the end of the benefit period unless the redetermination process is completed and a new benefit period is certified. *Id.* If the redetermination packet is not logged-in by the last working day of the redetermination month, Bridges automatically closes the benefits and a Notice of Case Action is not generated. *Id.*, p. 14.

For FAP redeterminations, generally, MDHHS is to conduct a telephone interview before redetermining ongoing eligibility. *Id.*, p. 6. FAP groups that have no earned income and in which all adult members are elderly or disabled do not require an interview at redetermination unless the group requests one or if there are outstanding issues or questions about the recertification process. *Id.* If the client misses the interview, Bridges sends a DHS-254, Notice of Missed Interview warning of case closure. *Id.*

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<sup>1</sup> Clients may verbally request hearings to dispute FAP eligibility. BAM 600 (March 2021) p. 2.

<sup>2</sup> MDHHS received a Redetermination form from Petitioner on April 2, 2024. Exhibit A, pp. 11-15. Petitioner's submission occurred more than a month after FAP benefits closed and would not justify MDHHS to reopen Petitioner's FAP eligibility.

MDHHS mailed Petitioner a Redetermination form on January 4, 2024. Exhibit A, pp. 4-10. The Redetermination form warned that Petitioner was to complete and return the form to MDHHS by January 24, 2024. An MDHHS specialist credibly denied that Petitioner's Redetermination form was not listed in its database as returned. Though MDHHS credibly testified that Petitioner's Redetermination form was not in its database, it does not preclude the possibility that Petitioner returned the form, but it was lost and/or misfiled.

Petitioner testified he timely returned the Redetermination form to MDHHS in January 2024. Petitioner's testimony was unverified, but it was consistent with what he reported to MDHHS when he requested a hearing. Exhibit A, p. 3. Generally, a client's testimony is more credible when it is included within a hearing request.

Presumably, disputes of unreturned documents are resolved before hearings are requested or held. Generally, when MDHHS does not receive properly requested documents from a client, a notice warning of a negative case action is sent to the client. Such notices typically allow the client timely notice of the negative case action; timely notice allows clients to avoid the negative action by returning requested documents within 11 days or more. BAM 220 (November 2023) p. 13.

In the present case, MDHHS sent no notice to Petitioner warning of case closure after a Redetermination due date was allegedly not met. As stated above, a Notice of Case Action is not generated when a Redetermination form is not received. Nevertheless, FAP recipients who require a redetermination interview receive a Notice of Missed Interview of FAP closure when redeterminations are not returned because MDHHS does not hold a redetermination interview until a Redetermination form is received. MDHHS did not send written notice of a missed interview to Petitioner because an interview was not required (Petitioner was the only group member, elderly, and without employment income). BAM 210 (January 2024) p. 10.

The evidence established that MDHHS, under its policy, properly did not issue written notice of FAP closure to Petitioner after the Redetermination form due date.<sup>3</sup> Generally, a client is more likely to be negligent in returning documents after receiving multiple warnings of negative case action. In the present case, MDHHS not receiving a Redetermination form is less likely due to Petitioner's negligence because of MDHHS not sending any written warnings of case closure after the Redetermination form due date.

Given the evidence, it is more probable than not that Petitioner timely submitted to MDHHS a Redetermination form. Thus, MDHHS improperly allowed Petitioner's FAP eligibility to expire. As a remedy Petitioner is entitled to a reprocessing of FAP benefits beginning March 2024.<sup>4</sup>

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<sup>3</sup> Arguably, the absence of written notice violates administrative hearing standards of due process. For example, see *Goldberg v. Kelly* 397 U.S. 254 (1970).

<sup>4</sup> MDHHS should not need to re-request a Redetermination form as it received one from Petitioner on April 2, 2024. Exhibit A, pp. 11-15.

**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 March 2024 subject to the finding that Petitioner timely submitted a Redetermination form to MDHHS; and
- (2) Issue notice and supplements, if any, in accordance with all MDHHS 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]