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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 7, 2024
MOAHR Docket No.: 24-003496
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 May 1, 2024. Petitioner did not participate. [REDACTED] [REDACTED] Petitioner's sister-in-law, participated as Petitioner's authorized hearing representative (AHR). The Michigan Department of Health and Human Services (MDHHS) was represented by Priya Johnson, supervisor.

ISSUES

The issue is whether MDHHS properly denied Petitioner's Food Assistance Program (FAP) application.

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] 2024, Petitioner applied for FAP benefits and reported ongoing employment income and a recent loss of employment.
2. As of January 2024, Petitioner was a naturalized U.S. citizen for approximately three years.
3. On February 9, 2024, MDHHS mailed Petitioner a Verification Checklist (VCL) requesting by February 20, 2024, the following verifications: citizenship, the last 30 days of employment income, and loss of employment.

4. On February 22, 2024, MDHHS denied Petitioner's FAP application due to Petitioner's failure to verify citizenship.
5. On March 27, 2024, Petitioner requested a hearing to dispute the denial of FAP benefits.
6. On March 27, 2024, Petitioner submitted to MDHHS proof of citizenship.

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. FAP policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute a denial of FAP benefits. Exhibit A, pp. 3-4. Petitioner applied for FAP benefits on [REDACTED] [REDACTED] 2024. A Notice of Case Action dated February 22, 2024, stated that Petitioner's application was denied due to a failure to timely verify citizenship.¹ Exhibit A, pp. 10-14.

MDHHS is to determine the status of each non-citizen requesting benefits at application. BEM 225 (January 2024) p. 1. If a group member is identified on the application as a U.S. citizen, MDHHS is to not require verification unless the statement about citizenship is inconsistent, in conflict with known facts or is questionable. *Id.* If questionable, MDHHS may request verification of citizenship. *Id.*, p. 20.

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.*

MDHHS credibly testified it requested verification of citizenship from Petitioner because it's most recent citizenship documentation from Petitioner was an expired green card. Under the circumstances, Petitioner's claim of citizenship was questionable. Thus, MDHHS had a reasonable basis for Petitioner's citizenship to be verified.

¹ MDHHS contended that Petitioner also failed to verify wages from ongoing employment and a recent loss of employment. These reasons for denial were not considered because they were not on the denial notice. The denial notice did list a failure to verify identity, but this was not considered because MDHHS did not allege that as a basis for application denial.

MDHHS mailed Petitioner a VCL on February 9, 2024, requesting, among other items, proof of Petitioner's citizenship. Exhibit A, pp. 7-9. Petitioner's due date to return verification was February 20, 2024. *Id.* It was not disputed that Petitioner did not return verification until March 27, 2024: several weeks after the VCL due date and denial of the application.

Petitioner's AHR acknowledged that verifications were late, but she requested a hearing so that a "reconsideration" could occur. Two reasons preclude a "reconsideration" of the application.

First, as of the hearing request date, MDHHS correctly denied Petitioner's application. Administrative hearings are not intended for reconsiderations based on events following the hearing request.

Secondly, even if events after the hearing request were considered, Petitioner is not entitled to any remedy. MDHHS policy allows for applications to be processed when verifications are late under "subsequent processing".² Subsequent processing policy allows MDHHS to process applications from the date of compliance when verifications are submitted within 31-60 days of the application date. BAM 115 (January 2024 p. 24. In the present case, MDHHS received Petitioner's verifications on the 61st day following the application date. Because Petitioner's submission occurred after 60 days from the date of application, subsequent processing may not be performed.

Given the evidence, MDHHS properly denied Petitioner's application for FAP benefits due to a failure to verify citizenship. Petitioner's recourse is to reapply for FAP benefits if benefits are still needed.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly denied Petitioner's FAP benefit application dated [REDACTED] 2024. The actions taken by MDHHS are **AFFIRMED**.

CG/nr



Christian Gardocki
Administrative Law Judge

² Petitioner's hearing request is inappropriate for subsequent processing because Petitioner had not submitted the verifications until a hearing was requested.

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 :

Authorized Hearing Rep.

[REDACTED], MI [REDACTED]

Petitioner

[REDACTED], MI [REDACTED]