



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 9, 2024
MOAHR Docket No.: 24-003507
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 May 1, 2024. Petitioner appeared and represented himself. The Department of Health and Human Services (Department) was represented by Danielle Moton, Assistance Payments Worker. Translation services were provided by Randa Abraham, an independent English-Arabic translator engaged by the Department.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) case effective April 1, 2024?

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 was an ongoing recipient of FAP for a group of five, which included Petitioner, his wife (Spouse), and his 3 minor children. (Exhibit A, pp. 9, 29).
2. Petitioner's native language is Arabic.
3. On January 17, 2024, Petitioner submitted a redetermination application for FAP to the Department. On the first page, on the line requesting "Household Street Address – the place where you currently live", Petitioner wrote [REDACTED] [REDACTED] [REDACTED] [REDACTED] MI [REDACTED] (New Address). Petitioner disclosed assets comprised of money and accounts, vehicles, and property. (Exhibit A, pp. 8 – 12).

4. On February 9, 2024, the Department interviewed Petitioner as part of the redetermination process. (Exhibit A, pp. 21 – 27).
5. On February 20, 2024, the Department noted the address Petitioner reported on his redetermination application was different from the address the Department had on file, which was [REDACTED] [REDACTED] [REDACTED] [REDACTED] MI [REDACTED] (Old Address). (Exhibit A, p. 13, Entry 99).
6. On February 20, 2024, the Department reviewed paystubs, a utility bill, and a bank statement, provided by Petitioner. Each item reflected either Petitioner's New Address or Old Address. (Exhibit A, p. 13, Entry 101).
7. On February 20, 2024, the Department sent Petitioner two Verification Checklists (VCL) to the Old Address.
8. The first VCL (VCL 1) requested verification of Petitioner's property taxes and home insurance, with a due date of March 1, 2024. (Exhibit A, pp. 14 – 16).
9. The second VCL (VCL 2) requested verification of:
 - a) current bank statements,
 - b) records of any assets sold or transferred in the last 60 months,
 - c) records of all mortgages or land contracts held by Petitioner,
 - d) records of self-employment income and expenses for 2023 [income] taxes, including Schedule C,
 - e) current proof of rent, mortgage, or land contract payments,
 - f) property tax and insurance bills for Petitioner's home for past year, and
 - g) proof of home ownership, such as deed, mortgage, property tax statement, or land contract.with no due date. (Exhibit A, pp. 17 – 20).
10. On February 29, 2024, the Department received proof of homeowner's insurance and property tax records from Petitioner for Old Address and New Address.
11. On March 5, 2024, the Department received Winter and Summer 2023 property tax statements from Petitioner, which it reviewed on March 6, 2024. The Summer 2023 property tax statement was due in 3 installments from September 14, 2023 through January 16, 2024 and was for Petitioner's Old Address. The Winter 2023 property tax statement was due by February 14, 2024 and was for Petitioner's New Address. (Exhibit A, p. 13, Entry 102; pp. 33 – 35).

12. On March 6, 2024, the Department sent Petitioner a Notice of Case Action (NOCA), to Old Address, closing Petitioner's FAP case, effective April 1, 2024, for failure to return requested verifications. (Exhibit A, pp. 28 – 32).
13. On March 22, 2024, the Department received a request for hearing from Petitioner, in which Petitioner disputed the closure of his FAP case without notice to Petitioner. Petitioner listed New Address on his request for hearing. (Exhibit A, pp. 3 – 5).
14. On April 24, 2024, the Department received additional documents from Petitioner, specifically:
 - a) Paystubs dated March 29, April 6, April 12, and April 29, 2024,
 - b) A Realcomp Online¹ document regarding the sale of Old Address; reporting the sale to have taken place on February 2, 2024,
 - c) A bank statement for the period of March 22, 2024 to April 22, 2024, and
 - d) Page 1 of Petitioner's 2023 1040 (income tax return).

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 closure of his FAP case, effective April 1, 2024.

The Department must redetermine an individuals' eligibility for active programs at least every 12 months² and includes a thorough review of all eligibility factors. BAM 210 (January 2024), pp. 1, 3. Benefits cease at the end of the current benefit period unless a redetermination is completed, and a new benefit period is certified. BAM 210, p. 3.

¹ Realcomp Online is a real estate subscription service typically used by Realtors. See <https://realcomp.moveinmichigan.com/Company/About-Realcomp> for more information.

² In cases with unstable circumstances, a review may be required more frequently. That is not an issue in this case.

As part of the redetermination process, verification is usually required. BAM 130 (October 2023), p. 1. To request verification of information, the Department sends a VCL which tells the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. The client must obtain required verification, but the local office must assist if they need and request help. BAM 130, p. 4. The Department must ensure that client responsibilities are explained in terms the client can understand. BAM 105 (March 2024), p. 12. The Department must assist clients in understanding written correspondence sent by the Department, and particular sensitivity must be shown to clients who are not fluent in English. BAM 105, p. 14. The Department sends a NOCA closing the client's case when the client refuses to provide the verification, or when the verification due date has passed and the client has not made a reasonable effort to provide the requested documents. BAM 130, pp. 7 – 8.

In this case, Petitioner's native language is Arabic and translation services were necessary, and utilized, during the instant hearing. Petitioner was due for a redetermination of FAP benefits for April 1, 2024 ongoing. Petitioner completed and returned his redetermination application to the Department on January 17, 2024. (Exhibit A, pp. 8 – 12). As part of his redetermination application, on the line requesting "Household Street Address – the place where you currently live", Petitioner wrote New Address. (Exhibit A, p. 8). Petitioner reported himself as being self-employed at a barber shop, and assets comprised of money and accounts, vehicles, and property. (Exhibit A, pp. 9 – 10).

The Department interviewed Petitioner on February 9, 2024 with the assistance of an Arabic interpreter. (Exhibit A, p. 21). While the Department noted that Petitioner's identification was verified by his address and that Petitioner's address was correct, it is unclear from the evidence in the record and testimony given what address was verified as correct. (Exhibit A, p. 21). It is also unclear from the evidence in the record and testimony given whether the Department had any discussion with Petitioner regarding a discrepancy between the address it had on record, Old Address, and New Address, which was the address Petitioner wrote on his redetermination application, while it was interviewing Petitioner with the assistance of the interpreter. (Exhibit A, pp. 1, 23). The Department also reviewed Petitioner's assets and income during the interview and recorded that Petitioner reported a checking account and vehicle (Exhibit A, p. 23), and that Petitioner's income was in the form of wages from full time employment (Exhibit A, p. 24). The Department did not offer evidence or testimony that it attempted to reconcile the information Petitioner provided on his redetermination application, regarding his assets and income, with the responses it recorded during his interview. At the conclusion of the interview, the Department noted that the redetermination was processed and benefits were approved. (Exhibit A, p. 13, Entry 99).

The Department re-reviewed Petitioner's case, including a utility bill from Old Address and a bank statement listing New Address, on February 20, 2024, and determined discrepancies existed as to Petitioner's address, assets, income, and shelter expenses. (Exhibit A, p. 13, Entry 101). The Department called Petitioner that day and Petitioner stated he was not available to talk at that time and disconnected the call, but it was

unclear whether the Department utilized an Arabic interpreter when it called Petitioner. (Exhibit A, p. 13, Entry 101). As a result of Petitioner being unavailable to talk to the Department at that time, the Department sent Petitioner two VCLs that day, both addressed to Petitioner at Old Address, requesting verification of Petitioner's property taxes and home insurance (VCL 1), as well as:

- a) current bank statements,
- b) records of any assets sold or transferred in the last 60 months,
- c) records of all mortgages or land contracts held by Petitioner,
- d) records of self-employment income and expenses for 2023 [income] taxes, including Schedule C,
- e) current proof of rent, mortgage, or land contract payments,
- f) property tax and insurance bills for Petitioner's home for past year, and
- g) proof of home ownership, such as deed, mortgage, property tax statement, or land contract.

(VCL 2). (Exhibit A, pp. 14 – 20). The Department also noted an intention to initiate a Front-End Eligibility (FEE) investigation³ on that date. (Exhibit A, p. 13, Entry 101).

Petitioner testified that he provided his complete 2023 1040, with all Schedules, to the Department in February 2024. In response to Petitioner's testimony, the Department stated it received proof of homeowner's insurance for Old Address and New Address and property tax records⁴ from Petitioner on February 29, 2024. There was no dispute that Petitioner also submitted Winter and Summer 2023 property tax statements to the Department on March 5, 2024 (Exhibit A, pp. 33 – 35), which the Department reviewed on March 6, 2024 (Exhibit A, p. 13, Entry 102, 103). The Summer 2023 property tax statement was due in 3 installments from September 14, 2023 through January 16, 2024 for Petitioner's Old Address. The Winter 2023 property tax statement was due by February 14, 2024 and was for Petitioner's New Address. (Exhibit A, p. 13, Entry 102; pp. 33 – 35).

On March 6, 2024, the Department determined that Petitioner did not provide an additional bank statement or his 2023 income tax return with Schedule C as requested⁵. (Exhibit A, p. 13, Entry 103). The Department also concluded that Petitioner owned an additional property (New Address) that was not disclosed and that the Summer 2023

³ The FEE program is a fraud prevention program established by the Office of Inspector General (OIG) of the Department.

⁴ The Department did not clarify which property tax records it received on this date.

⁵ The Department also noted that Petitioner "did not the additional 2 vehicles" [sic], but the Department did not introduce any evidence nor testify that Petitioner failed to disclose any vehicles or that it requested verification related to any vehicles. (Exhibit A, p. 13, Entry 103).

property tax statement was “supposedly the client’s residential address”. (Exhibit A, p. 13, Entry 103). Based on its review, the Department determined that Petitioner did not comply with the VCLs and sent Petitioner a NOCA on March 6, 2024, to Old Address, closing Petitioner’s FAP case, effective April 1, 2024, for failure to return requested verifications. (Exhibit A, pp. 28 – 32). The Department again noted an intention to initiate a FEE investigation⁶. (Exhibit A, p. 13, Entry 103).

Petitioner testified that he had provided documents to the Department regarding the sale of Old Address to the Department in February 2024 with his redetermination application and again about two weeks prior to the hearing. The Department did not have a record of those documents but did acknowledge having received some documents from Petitioner in February and testified that Petitioner provided additional documents to the Department on April 24, 2024 that it has not yet reviewed. The documents provided to the Department on April 24, 2024 included:

- Paystubs dated March 29, April 6, April 12, and April 29, 2024,
- A Realcomp Online document regarding the sale of Old Address; reporting the sale to have taken place on February 2, 2024,
- A bank statement for the period of March 22, 2024 to April 22, 2024, and
- Page 1 of Petitioner’s 2023 1040 (income tax return).

Because Petitioner was, and remains, actively responsive to the Department, he has demonstrated that he has made, and continues to make, an earnest effort to comply with the Department’s requests since submitting his redetermination application. Petitioner provided the Department with at least one bank statement in February 2024 and copies of all current property tax statements for a property he has since sold, as well as the property his family currently owns, multiple times between February and March 2024, and testified that he provided documents to the Department regarding the sale of Old Address in February 2024.

Given the timing of Petitioner’s redetermination application, interview, and alleged sale date of Old Address, as those dates relate to each other and appear to overlap, compounded by any language barrier between the Department and Petitioner by use of written correspondence versus verbal exchanges involving an interpreter, while Petitioner’s circumstances may be confusing to the Department, Petitioner did make reasonable attempts to comply with the Department’s requests despite the VCLs not having been sent to Petitioner at New Address. In light of the foregoing, and the Department’s responsibility to assist clients in understanding written correspondence sent by the Department and to show particular sensitivity to clients who are not fluent in English (BAM 105, p. 14), the Department has not satisfied its burden that it acted in accordance with Department policy when failed to send the VCLs to Petitioner at New

⁶ At the hearing, the Department did not testify or offer any evidence as to the results of any FEE investigation.

Address and when it closed Petitioner's FAP case for failure to provide requested verifications.

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 failed to utilize New Address, as reported on Petitioner's redetermination application, when it sent Petitioner the VCLs, and when it closed Petitioner's FAP case, effective April 1, 2024, due to a failure by Petitioner to provide requested verifications.


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. Reinstate Petitioner's FAP case effective April 1, 2024 ongoing;
2. Process Petitioner's change of address as reported on his redetermination application;
3. Redetermine Petitioner's FAP eligibility effective April 1, 2024 ongoing;
4. 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 April 1, 2024 ongoing; and
5. 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
Tara Roland 82-17
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Interested Parties
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MOAHR

Via-First Class Mail :

Petitioner
[REDACTED]
MI [REDACTED]