



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

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Date Mailed: May 31, 2022
MOAHR Docket No.: 22-001845
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Linda Jordan

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 on May 25, 2022 via teleconference. Petitioner appeared and represented herself. Tiffany Flemings, Assistance Payments Worker, represented the Michigan Department of Health and Human Services (MDHHS or Department).

ISSUE

Did MDHHS properly close Petitioner's Food Assistance Program (FAP) case?

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 benefits.
2. On March 21, 2022, Petitioner submitted a Semi-Annual Contact Report to MDHHS (Exhibit A, pp. 7-9). On the Semi-Annual Contact Report, Petitioner indicated that the amount MDHHS was budgeting for her monthly income was incorrect (Exhibit A, p. 8). Petitioner stated that she had no employment income or Unemployment Compensation Benefits (UCB) (Exhibit A, p. 9).
3. On [REDACTED] 2022, Petitioner filed a Request for Hearing disputing MDHHS' calculation of her income (Exhibit A, pp. 3-4).
4. On April 27, 2022, MDHHS sent Petitioner a Verification Checklist (VCL), which requested proof of Petitioner's income (Exhibit A, pp. 10-12). The proofs were due May 9, 2022 (Exhibit A, p. 10).

5. Effective April 30, 2022, MDHHS terminated Petitioner's FAP benefits and closed her case.

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. MDHHS administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

In this case, MDHHS terminated Petitioner's FAP benefits for failure to provide the requested verifications in a timely manner. However, MDHHS testified that the benefits were terminated effective April 30, 2022, even though the requested verifications were not due until May 9, 2022 (Exhibit A, p. 10).

MDHHS is required to obtain verification when it is required by policy or information is unclear or incomplete. BAM 130 (January 2022), p. 1. To obtain verification, MDHHS must tell the client what verification is required, how to obtain it and the due date. *Id.* MDHHS is required to use a VCL to request verification from clients. *Id.* Clients are required to obtain the requested verification, but the local office must help if clients need and request help. BAM 130, p. 3. If neither the client nor the local office can obtain verification despite a reasonable effort, MDHHS is required to use the best available information. *Id.* Verifications are considered timely if they are received by the date they are due. BAM 130, p. 7. MDHHS is required to send a negative action notice if the time period has elapsed and the client has not made a reasonable effort to provide the requested verification. *Id.* However, if a client contacts MDHHS prior to the due date and requests an extension or assistance in obtaining the verification, MDHHS must assist the client. *Id.* Additionally, before determining eligibility, MDHHS must give clients a reasonable opportunity to resolve any discrepancy between their statements and information from another source. BAM 130, p. 9.

Here, the record shows that Petitioner timely submitted her Semi-Annual Contact Review on March 21, 2022 (Exhibit A, p. 7). On the Semi-Annual Contact Review, Petitioner indicated that MDHHS was budgeting an incorrect amount for her income and that she had no employment or UCB income (Exhibit A, pp. 8-9). On April 27, 2022, MDHHS sent Petitioner a VCL requesting verification that her income had ended and the VCL stated that the proofs were due by May 9, 2022 (Exhibit A, p. 10). Petitioner

testified that she sent MDHHS verification of her income several times but that the change was not processed by MDHHS.

At the hearing, MDHHS testified that Petitioner's FAP case was closed, effective April 30, 2022, for failure to return the requested verifications regarding her employment and UCB income. This action was premature because the VCL indicated that the proofs were due on May 9, 2022. Regardless of whether Petitioner sent in the proper documentation, the record shows that MDHHS did not follow policy when it closed Petitioner's FAP case because the action was taken prior to the deadline on the VCL. Thus, MDHHS did not give Petitioner a reasonable opportunity to resolve the discrepancies in her FAP budget.

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 MDHHS did not act in accordance with Department policy when it terminated Petitioner's FAP benefits.

DECISION AND ORDER

Accordingly, MDHHS' decision is **REVERSED**.

MDHHS 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 30, 2022;
2. Redetermine Petitioner's eligibility for FAP benefits and recalculate her benefit rate from April 30, 2022 ongoing;
3. If Petitioner is eligible for FAP benefits, issue supplements to Petitioner for any FAP benefits she was eligible to receive but did not from April 30, 2022 ongoing; and
4. Notify Petitioner of its decision in writing.

LJ/tm



Linda Jordan
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

Email Recipients:

MDHHS-Wayne-18-Hearings
M. Holden
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First-Class Mail Recipient:

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