



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: September 12, 2022
MOAHR Docket No.: 22-003505
Agency No.: ██████████
Petitioner: ██████████ ██████████

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 September 8, 2022 via teleconference. Petitioner appeared and represented herself. Caitlin Dodge, Assistance Payments Supervisor, represented the Michigan Department of Health and Human Services (MDHHS or Department).

ISSUE

Did MDHHS 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 ██████████ 2022, Petitioner applied for FAP benefits (Exhibit A, pp. 5-11).
2. On July 18, 2022, MDHHS conducted an eligibility interview with Petitioner by phone (Exhibit A, pp. 12-18). Petitioner reported that she received Retirement, Survivors, Disability Insurance (RSDI) benefits and a pension (Exhibit A, p. 16).
3. On July 18, 2022, MDHHS sent Petitioner a Verification Checklist (VCL) requesting verification of her pension income by July 28, 2022 (Exhibit A, p. 19).
4. On July 29, 2022, MDHHS sent Petitioner a Notice of Case Action indicating that her FAP application was denied because she failed to verify or allow the Department to verify information necessary to determine eligibility for the program (Exhibit A, pp. 22-23).
5. On ██████████, 2022, Petitioner filed a Request for Hearing (Exhibit A, pp. 3-5).

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 denied Petitioner's FAP application because it did not receive the requested verification of her pension by the deadline listed on the Verification Checklist (VCL).

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.*, p. 3. MDHHS is required to use a VCL to request verification from clients. *Id.* If the individual indicates the existence of a disability that impairs their ability to gather verifications and information necessary to establish eligibility for benefits, MDHHS must offer to assist the individual in the gathering of such information. *Id.*, p. 1. The client must obtain the requested verification, but the local office must assist the client if they need and request help. *Id.*, p. 3. If neither the client nor the local office can obtain verification despite a reasonable effort, MDHHS must use the best available information. *Id.* If no evidence is available, MDHHS must use its best judgement. *Id.*

MDHHS allows the client ten calendar days to provide the requested verification. *Id.*, p. 7. Verifications are considered timely if received by the date that they are due. *Id.* MDHHS sends a negative action notice when the client indicates a refusal to provide the requested verification or the time period given on the VCL has lapsed and the client has not made a reasonable effort to provide it. *Id.* For FAP, if the client contacts MDHHS prior to the due date requesting an extension or assistance in obtaining verifications, MDHHS is required to assist the client but may not grant an extension. *Id.* If the client returns the requested verifications, eligibility will be determined based on the compliance date, following subsequent processing rules. *Id.*

The record shows that Petitioner applied for FAP benefits on [REDACTED], 2022 and MDHHS conducted an eligibility interview with Petitioner on July 18, 2022 (Exhibit A, pp. 5, 12). During the eligibility interview, Petitioner reported that she lives alone and is disabled (Exhibit A, p. 12). Petitioner also reported that she receives RSDI benefits and a pension (Exhibit A, p. 16). On July 18, 2022, MDHHS sent Petitioner a VCL requesting verification of her pension income by July 28, 2022 (Exhibit A, p. 19). MDHHS testified that it did not receive the requested verification by the deadline and it denied Petitioner's FAP application on July 29, 2022 (Exhibit A, p. 22).

Petitioner credibly testified that she was unable to comply with the request by the deadline, because the pension company required seven to ten days to process her request and send her a recent check stub or a letter verifying her monthly payment. She further testified that she attempted to call her MDHHS worker for weeks to explain the situation but was unable to reach anyone. Petitioner stated that it was difficult for her to obtain the requested information due to her disability and being confined to a wheelchair. Petitioner testified that once she received the document from the pension company, she mailed it to MDHHS. MDHHS testified that it had not received the verification as of the date of the hearing.

Clients are required to comply with MDHHS' requests for information, however, MDHHS must assist the client if they request and need help. In this case, Petitioner indicated that she had a disability during the eligibility interview. Given Petitioner's challenges, MDHHS should have offered to assist Petitioner in gathering the required information. See BAM 130, p. 1. Further, Petitioner attempted to call MDHHS to request help for several weeks but was unable to reach her worker. Although Petitioner needed help, she was unable to request it through no fault of her own. No evidence was presented that Petitioner refused to supply the requested verification or that she was not cooperating with MDHHS' request.

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 denied Petitioner's FAP application.

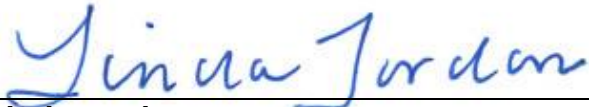
DECISION AND ORDER

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. Reregister Petitioner's [REDACTED] 2022 FAP Application;
2. Redetermine Petitioner's eligibility for FAP from July 1, 2022 ongoing;
3. Issue supplements to Petitioner for any FAP benefits that she was eligible for but did not receive; 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

Via-Electronic Mail :

DHHS
Linda Gooden
Oakland County Southfield District III
25620 W. 8 Mile Rd
Southfield, MI 48033
MDHHS-Oakland-6303-
Hearings@michigan.gov

Interested Parties

M. Holden
D. Sweeney
BSC4
MOAHR

Via-First Class Mail :

Petitioner

[REDACTED]
[REDACTED]
[REDACTED], MI [REDACTED]