



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

Date Mailed: November 16, 2022
MOAHR Docket No.: 22-004368
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Danielle Nuccio

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 telephone hearing was held on November 10, 2022. The Petitioner was represented by adult household member, [REDACTED]. Petitioner was aided by Arabic interpreters Lakhdar Sammache and Nidar Al Sharif. The Department of Health and Human Services (MDHHS) was represented by Valerie Foley, Hearings Facilitator.

ISSUE

Did MDHHS properly deny 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] 2022, Petitioner applied for FAP for a group size of four.
2. On August 31, 2022, MDHHS issued a Verification Checklist (VCL) to Petitioner, requesting 30 days of income information from [REDACTED] (Business) and 30 days of income information from unknown self-employment. MDHHS requested that this information be submitted by September 12, 2022 (Exhibit A, p. 6).
3. On September 14, 2022, MDHHS issued a Notice of Case Action to Petitioner informing him that his FAP case was denied for failure to timely return verification of self-employment income (Exhibit A, pp. 7-11).
4. On September 23, 2022, MDHHS received Petitioner's request for hearing regarding the denial of his FAP application (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. 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 regarding the denial of his [REDACTED] 2022 FAP application for failure to timely return verifications of income.

MDHHS issued a VCL to Petitioner on August 31, 2022. MDHHS did not present the VCL at the hearing but testified that the VCL requested Petitioner provide 30 days of income information from Business and 30 days of income information from unknown self-employment. MDHHS requested that this information be submitted by September 12, 2022. Verification is usually required at application or redetermination and for a reported change affecting eligibility or benefit level, including income. BAM 130 (January 2022), pp. 1-2. All countable earned and unearned income available to the client must be considered in determining a client's eligibility for program benefits and group composition policies specify whose income is countable. BEM 500 (April 2022), pp. 1-5. MDHHS determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Prospective income is income not yet received but expected. BEM 505 (November 2021), pp. 1-2. MDHHS testified that on September 12, 2022, Petitioner submitted paystubs from Business. MDHHS testified that the paystubs received were insufficient verification because they were personal checks that had Business's name on them but didn't tell how much income the business generated. MDHHS testified that they had discovered that Business is actually owned by Petitioner, so the income needed to be counted differently and the paystubs received did not give enough income information to properly calculate Petitioner's household budget. According to Business's name, it is a Limited Liability Companies or LLC. Individuals who run their own businesses are self-employed. However, LLCs are not self-employment. BEM 502 (October 2019), p. 1. MDHHS counts the income a client receives from a LLC as wages, even if the client is the owner. BEM 501 (July 2022), p. 5. Wages are the pay an employee receives from another individual organization or S-Corp/LLC. Wages are counted as earned income. BEM 501, p. 7. Assuming that Business is a LLC as it is titled, MDHHS must calculate Petitioner's income from Business as earned income. MDHHS did not present the paystubs received or elaborate on why the paystubs received were unable to be used to calculate Petitioner's earned income amount. Since MDHHS did not present the income information that they

relied upon, their decision is unable to be reviewed to determine if they acted in accordance with policy. Therefore, MDHHS has failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Petitioner's FAP application.

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 has failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Petitioner's August 17, 2022 FAP application.

DECISION AND ORDER

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

1. Reregister the [REDACTED] 2022 application;
2. Reprocess the application/recalculate the FAP budget for August 17, 2022 ongoing;
3. If Petitioner is eligible for benefits, issue supplements to Petitioner for any FAP benefits he was eligible to receive but did not from August 17, 2022 ongoing;
4. Notify Petitioner of its decision in writing.

DN/mp



Danielle Nuccio

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
MDHHS-Wayne-19-Hearings
D. Sweeney
M. Holden
MOAHR
BSC4

Via-First Class Mail :

Petitioner

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