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GOVERNOR

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

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DIRECTOR

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Date Mailed: November 10, 2022
MOAHR Docket No.: 22-004594
Agency No.: ██████████
Petitioner: ██████████

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 line on November 3, 2022. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Michelle Collins, hearings facilitator.

ISSUES

The first issue is whether MDHHS properly terminated Petitioner's Food Assistance Program (FAP) eligibility.

The second issue is whether MDHHS properly denied Petitioner's State Emergency Relief (SER) application requesting energy assistance.

FINDINGS OF FACT

The administrative law judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. As of August 2022, Petitioner received ongoing FAP benefits with a benefit period certified through September 2022.
2. On ██████████ 2022, Petitioner applied for SER- Energy and reported ongoing childcare income.
3. On August 31, 2022, MDHHS mailed Petitioner a Verification Checklist requesting proof of Petitioner's childcare income by September 7, 2022.

4. On September 2, 2022, Petitioner submitted to MDHHS a Semi-Annual Contact Report (SACR) to MDHHS reporting an unspecified amount of self-employment income. Petitioner also submitted a bank statement.
5. On September 13, 2022, MDHHS denied Petitioner's SER application due to a failure to verify income.
6. On September 16, 2022, MDHHS sent Petitioner a Verification Checklist (VCL) requesting proof of self-employment income by September 26, 2022.
7. On September 21, 2022, Petitioner submitted to MDHHS income tax documentation from 2021 which did not reflect current income.
8. Beginning October 2022, MDHHS ended Petitioner's FAP eligibility.
9. On October 4, 2022, Petitioner requested a hearing to dispute the denial of SER-Energy and closure of FAP benefits.

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, in part, to dispute a termination of FAP benefits. Exhibit A, pp. 3-4. MDHHS testified that Petitioner's FAP eligibility ended October 2022 due to a failure to verify self-employment income as part of a semi-annual review.

For cases with employment income, MDHHS sends a SACR at the beginning of the fifth month for cases assigned a 12-month benefit period. BAM 210 (April 2022) p. 11. A report is considered complete when all sections (including the signature section) are answered completely and required verifications are returned. *Id.*, p. 12. The client's gross earned income from his/her most current budget is pre-filled on the SACR. *Id.* If the client's gross income has changed by more than \$125 from the pre-filled amount on the form, he/she must return verification of his/her past 30 days of earnings with his/her completed form. *Id.*

For all programs, MDHHS is to inform the client what verification is required, how to obtain it, and the due date. BAM 130 (January 2022) p. 3. MDHHS is to use the VCL to request verification. *Id.* For FAP, MDHHS is to allow the client at least 10 calendar days to provide the verification that is requested. *Id.*, p. 8. For reviews, verifications must be provided by the end of the current benefit period or within 10 days after they are

requested, whichever allows more time. BAM 210 (April 2022) pp. 17-18. The group loses its right to uninterrupted benefits if verifications are not returned. *Id.*, p. 22.

MDHHS testified that Petitioner submitted a SACR to MDHHS on September 2, 2022, reporting an unstated amount of self-employment income. A reporting of an unspecified amount of income justified MDHHS requesting verification of self-employment income.

MDHHS sent Petitioner a VCL on September 16, 2022, requesting verification of self-employment income by September 26, 2022. Exhibit A, pp. 6-8. On September 21, 2022, Petitioner submitted to MDHHS an income tax statement from 2021. Income tax documents may verify self-employment income if the previous year's income is reflective of ongoing income. Petitioner's testimony acknowledged receiving income from a previously unreported temporary job in August 2022. Petitioner also reported having childcare income on a recently submitted SER application. There was no evidence that Petitioner's 2021 income tax documents reflected Petitioner's income as of August or September 2022. Thus, MDHHS properly rejected Petitioner's 2021 income tax documents as acceptable verification of ongoing income.¹

Given the evidence, Petitioner failed to verify income as part of a semi-annual review. Thus, MDHHS properly terminated Claimant's FAP eligibility beginning October 2022.²

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Department of Human Services) pursuant to MCL 400.10 and Mich Admin Code, R 400.7001-.7049. MDHHS policies are contained in the Emergency Relief Manual (ERM).

Petitioner also requested a hearing to dispute a denial of an SER application. Exhibit A, pp. 3-4. It was not disputed that Petitioner applied for SER on [REDACTED] 2022, seeking assistance with an energy bill. MDHHS testified, without rebuttal, that Petitioner's application was denied on September 13, 2022, due to a failure by Petitioner to verify income.

There are no income copayments for SER-energy. ERM 208 (October 2021) p. 1. With respect to income, clients are either eligible or not for SER-Energy. *Id.* For a group to be eligible for SER-Energy, the combined monthly net income that is received or expected to be received by all group members in the 30-day countable income period, cannot

¹ On an unsigned self-employment income statement submitted to MDHHS on October 4, 2022, Petitioner reported having no self-employment income in June, July, or August 2022. Petitioner's submission will not be evaluated as an acceptable verification because Petitioner had not submitted the document before requesting a hearing. Petitioner's submission also contradicts her testimony that she had temporary employment in August 2022.

² Petitioner reapplied for FAP benefits on [REDACTED] 2022. As of the date of hearing, Petitioner's application was pending for income verifications. Petitioner may experience no loss in benefits if her application is ultimately approved.

exceed the income standard which is based on the number of group members. *Id.* If the income exceeds the income standard limit, the SER request must be denied. *Id.*

MDHHS is to verify and budget all non-excluded gross income the SER group expects to receive during the countable income period.³ ERM 206 (November 2019) p. 1. Clients must be informed of all verifications that are required and where to return verifications. ERM 103 (October 2021) p. 5. The due date is eight calendar days, which begins on the date the DHS-3503, SER Verification Checklist (VCL) is generated. *Id.*, pp. 5-6. MDHHS is to deny the application if the group does not cooperate. *Id.*

MDHHS credibly testified that Petitioner reported receiving ongoing childcare income on her SER application. MDHHS also testified that Petitioner was sent a VCL on August 31, 2022, giving Petitioner until September 7, 2022, to verify childcare income. On September 2, 2022, Petitioner submitted to MDHHS a bank statement.

MDHHS contended that the bank statement was an improper verification of self-employment income. Acceptable verification sources for self-employment income include a tax statement if income has not changed or written statements of income. BEM 502 (October 2019) p. 7. Notably, a bank statement is not listed as an acceptable verification of self-employment income. It is not deemed to be acceptable verification of income because it can only verify bank deposits which may or may not reflect income received. Because a bank statement does not verify income, MDHHS properly rejected the bank statement as verification. There was no evidence that Petitioner submitted any other self-employment income documents before MDHHS denied the SER application.

Given the evidence, Petitioner failed to verify self-employment income for SER. Thus, MDHHS properly denied Petitioner's SER application. Petitioner is free to reapply for SER if assistance is 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 SER-Energy application dated [REDACTED] 2022. MDHHS also properly terminated Petitioner's FAP eligibility beginning October 2022. The actions taken by MDHHS are **AFFIRMED**.

CG/mp



Christian Gardocki
Administrative Law Judge

³ The countable income period consists of 30 days beginning with the SER application date. *Id.*

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-55-Hearings
E. Holzhausen
D. Sweeney
M. Holden
MOAHR
T. Bair
BSC4

Via-First Class Mail :

Petitioner

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