



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: February 6, 2023
MOAHR Docket No.: 22-006242
Agency No.: ██████████
Petitioner: ██████████

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 January 30, 2023. The Petitioner appeared and represented herself. The Department of Health and Human Services (MDHHS) was represented by Sharelle Fletcher, Eligibility Specialist.

ISSUE

Did MDHHS properly deny Petitioner's Food Assistance Program (FAP) application for failure to timely submit the requested verifications to MDHHS?

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. 10-17).
2. On November 9, 2022, MDHHS issued a Verification Checklist (VCL) to Petitioner, requesting that she submit proof of her employment and income from ██████████ (Employer). MDHHS requested that this information be submitted by November 21, 2022 (Exhibit A, pp. 18-20).
3. On November 17, 2022, MDHHS received an employment verification form completed by Petitioner. Petitioner reported that she was fired from Employer as of October 28, 2022, receiving her last paycheck on November 4, 2022 (Exhibit A, pp. 21-23).

4. On December 5, 2022, MDHHS issued a Notice of Case Action to Petitioner, informing her that her FAP application was denied for failure to return verification of earned income (Exhibit A, pp. 6-9).
5. On December 21, 2022, MDHHS received Petitioner's timely submitted hearing request disputing the denial of her FAP application (Exhibit A, pp. 3-4).

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.

MDHHS denied Petitioner's FAP application for failure to return the requested verifications timely. In order to determine Petitioner's eligibility for FAP at the time of her application, MDHHS requested Petitioner submit verification of income at Employer. Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. Verification is usually required at application and redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (January 2022), p. 1. MDHHS must verify income that stopped within the 30 days prior to the application date or while the application is pending before certifying the eligibility for a client. The client must obtain required verification, but the local office must assist if they need and request help. If neither the client nor the local office can obtain verification despite a reasonable effort, use the best available information. If no evidence is available, use your best judgment. BAM, p. 3. MDHHS must allow the client 10 calendar days to provide the verification that is requested. Verifications are considered to be timely if received by the date they are due. MDHHS will issue a negative action notice when the client indicates refusal to provide a verification, or the time period given has elapsed and the client has not made a *reasonable* effort to provide it. BAM 130, p. 7 (Emphasis Added). If eligibility fails due to lack of verification of stopped income, a client who reapplies, does not need to verify stopped income if it has been over 30 days. BAM 130, p. 14.

In this case, Petitioner reported that her employment ended on October 28, 2022 and that she received her last paycheck on November 4, 2022. Petitioner explained that her position at Employer was remote, and it was hard to make contact with Employer after her employment was terminated. Petitioner testified that she completed the Employment

Verification form herself and was not aware that it needed to be completed by Employer. It is unclear how the Employment Verification form was obtained by Petitioner and why it was not mailed directly to Employer for completion. The form is addressed to Employer and should have been issued to them directly. Petitioner testified that she requested paystubs from Employer, but Employer did not respond. Petitioner notified MDHHS that she was unable to attain verification of her termination of employment and requested assistance. Petitioner provided the phone number of Employer to MDHHS. MDHHS testified that when the caseworker attempted to call that number, it was a "bad phone number." Petitioner testified that on January 6, 2023, she went to the MDHHS local office and the front desk worker called Employer for her. The worker was able to make contact with Employer and was told that the requested verification would be faxed over. MDHHS states that they have no record of this phone call and to date have not received any information from Employer.

It is clear that Petitioner made reasonable efforts to obtain the requested verifications but was unable to receive a response from Employer. Petitioner asked MDHHS for assistance and the assistance that she received was minimal. There is no evidence as to whether MDHHS issued the Employment Verification directly to Employer and whether Employer failed to respond to MDHHS. Petitioner attempted to provide the information to MDHHS timely by completing the verification form herself. Since there were issues in communicating with Employer and Petitioner made a reasonable effort to provide the requested information, MDHHS should have used the best available information to determine Petitioner's eligibility rather than issuing a negative case action notice, pursuant to BAM 130. Therefore, MDHHS did not act in accordance with policy in denying Petitioner's FAP application for failure to submit verification of loss of employment with Employer.

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.

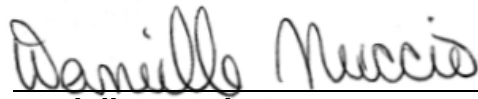
DECISION AND ORDER

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

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. Reregister Petitioner's [REDACTED] 2022 FAP application;
2. Reprocess the application/recalculate the FAP budget for [REDACTED] 2022 ongoing in accordance with policy and consistent with this hearing decision;

3. If Petitioner is eligible for benefits, issue supplements to Petitioner for any FAP benefits she was eligible to receive but did not from [REDACTED] 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-17-hearings
D. Sweeney
M. Holden
MOAHR
BSC4

Via-First Class Mail :

Petitioner

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