



GRETCHEN WHITMER
GOVERNOR

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

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**JORI WATKINS
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DEARBORN HEIGHTS, MI 48127**

Date Mailed: March 30, 2023
MOAHR Docket No.: 23-000939
Agency No.: 129592962
Petitioner: Jori Watkins

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 March 23, 2023 via teleconference. Petitioner appeared and represented herself. Valarie Foley, Hearings Facilitator, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department).

ISSUE

Did MDHHS properly terminate Petitioner's 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. Petitioner was an ongoing recipient of FAP benefits.
2. On December 12, 2022, MDHHS sent Petitioner a Verification Checklist (VCL) requesting employment verification for AmeriCare (Exhibit A, pp. 15-16). The VCL indicated that proofs were due by December 22, 2022 (Exhibit A, p. 15).
3. On January 19, 2023, Petitioner submitted a Semi-Annual Contact Report to MDHHS (Exhibit A, p. 20). Petitioner reported a change in household income (Exhibit A, p. 21).
4. On January 30, 2023, MDHHS sent Petitioner a Notice of Case Action indicating that her FAP benefits were terminated, effective February 1, 2023 ongoing (Exhibit A, p. 23). MDHHS indicated that the reason for the closure was that Petitioner failed to return verification of missing check stubs (Exhibit A, p. 24).

5. On February 17, 2023, Petitioner filed a Request for Hearing to dispute the termination of her FAP benefits (Exhibit A, pp. 3-7).

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 and closed her case for failing to return the requested verifications by the deadline.

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.* 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.* Before determining eligibility, MDHHS must give the client a reasonable opportunity to resolve any discrepancies between the client's statements and information from another source. *Id.*, p. 9.

Here, MDHHS terminated Petitioner's assistance because she failed to return the requested verification from employment at AmeriCare. Petitioner disputed this determination and testified that she returned paystubs from her current employment as MDHHS requested. The record shows that Petitioner returned paystubs from her

employment at SKLD (Exhibit A, pp. 8-12). Petitioner testified that her position as SKLD was her only employment and that AmeriCare and SKLD were the same company.

The record shows that Petitioner was attempting to comply with MDHHS' requests and the confusion likely stemmed from the issue with the name of the employer. MDHHS failed to establish that MDHHS was not cooperating with its attempts to ascertain employment information and did not present sufficient evidence to show it allowed Petitioner a reasonable opportunity to resolve any discrepancies between her statements and information that MDHHS received from another source.

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 failed to satisfy its burden of showing that it acted 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 February 1, 2023;
2. Redetermine Petitioner's eligibility for FAP from February 1, 2023 ongoing, requesting additional verifications if necessary;
3. Issue supplements to Petitioner for any FAP benefits that she was entitled to receive but did not from February 1, 2023 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

Via-Electronic Mail :

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26355 Michigan Ave
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Via-First Class Mail :

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