



GRETCHEN WHITMER
GOVERNOR

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

MARLON I. BROWN, DPA
ACTING DIRECTOR

[REDACTED]
[REDACTED]
MI [REDACTED]

Date Mailed: November 9, 2023
MOAHR Docket No.: 23-006402
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 1, 2023. Petitioner appeared and represented herself. Petitioner's understanding of the hearing was facilitated by Arabic translator, Selwa Abdallah. The Department of Health and Human Services (MDHHS) was represented by Maureen Curran, Eligibility Specialist.

ISSUE

Did MDHHS properly deny Petitioner's Food Assistance Program (FAP) application for failure to return verification of income?

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 July 28, 2023, MDHHS issued a Verification Checklist (VCL), requesting that Petitioner submit verification of donation or contribution, self-employment income, employment income, and housing expenses to MDHHS by August 7, 2023 (Exhibit A, pp. 34-36).
2. On or about August 8, 2023, Petitioner submitted to MDHHS that she no longer receives \$[REDACTED] per month in donations or contributions.
3. On August 9, 2023, MDHHS issued a Notice of Case Action to Petitioner, informing her that her FAP case would be closed, effective September 1, 2023, for failure to return verification of self-employment or employment income (Exhibit A, pp. 8-12).

4. On September 5, 2023, Petitioner submitted an application for FAP benefits for a group size of three, consisting of her two minor children and herself. Petitioner reported that she is self-employed at [REDACTED] (Employer) and receives \$[REDACTED] in monthly donations (Exhibit A, pp. 44-51).
5. On September 7, 2023, MDHHS issued a Verification Checklist (VCL), requesting that Petitioner submit verification of donation or contribution, self-employment income, and employment income, to MDHHS by September 18, 2023 (Exhibit A, pp. 37-39).
6. On September 19, 2023, 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. 26-29).
7. On or about September 25, 2023, Petitioner submitted to MDHHS that she no longer receives \$[REDACTED] per month in donations or contributions.
8. On [REDACTED], Petitioner submitted an application for FAP benefits for a group size of three, consisting of her two minor children and herself. Petitioner reported that she is self-employed at Employer (Exhibit A, pp. 13-25).
9. On October 2, 2023, 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. 30-33).
10. On October 6, 2023, MDHHS received Petitioner's timely submitted hearing request disputing the denial of her FAP applications and closure of her FAP case (Exhibit A, pp. 5-6).

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.

In this case, Petitioner's FAP case was closed for failure to submit verification of self-employment income or employment income. Following the FAP closure, Petitioner submitted two additional applications for FAP benefits. Both applications were denied

for failure to return verification of earned income. Petitioner disputes no longer receiving FAP benefits.

On July 28, 2023 and on September 7, 2023, MDHHS issued a VCL to Petitioner, requesting verification of her income. 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 (October 2022), pp. 1-2. In prospecting income, MDHHS is required to use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month, discarding any pay if it is unusual and does not reflect the normal, expected pay amounts. BEM 505, pp. 5-6. 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, MDHHS must use the best available information. BAM 130, p. 3. If the time period given to provide verifications has elapsed and the client has not made a reasonable effort to provide it, then a negative action notice must be sent. BAM 130, p. 7.

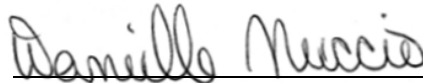
In this case, MDHHS requested income information from the last 30 days in each referenced VCL. Petitioner provided paystubs from Employer from August 6 through August 12 and from August 13 from August 19 (see Exhibit A, pp. 52-53). Petitioner did not provide 30 days of income information. Petitioner testified that she was unable to submit income information because Employer was no longer in business. Petitioner testified that her last day of work was September 22, 2023. Petitioner notified MDHHS that she was having issues in retrieving verification of income from Employer on October 9, 2023, after the denial of her most recent FAP application. Given that Petitioner was still employed at the time of her September 5 application and the VCL issued on September 7, she should have been able to retrieve and submit income information timely. Alternatively, Petitioner could have let MDHHS know that she was having difficulty obtaining income information prior to either denial of her FAP application. Since MDHHS did not have 30 days of income information to prospect Petitioner's household income and determine FAP eligibility, MDHHS acted in accordance with policy in denying Petitioner's FAP application for failure to submit the requested verification of income. Petitioner is encouraged to re-apply for FAP benefits and submit all requested verifications timely.

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 acted in accordance with Department policy when it denied Petitioner's FAP applications.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

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 :

Interested Parties
MDHHS-Macomb-20-Hearings
Policy-Recoupment
N. Stebbins
MOAHR
BSC4

Via-First Class Mail :

Petitioner

MI