



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]
MI

Date Mailed: November 28, 2023
MOAHR Docket No.: 23-006938
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 20, 2023. Petitioner appeared and represented herself. The Department of Health and Human Services (MDHHS) was represented by Valarie Foley, Hearings Facilitator.

ISSUE

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

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. Petitioner verbally reported to MDHHS that she receives funds from her adult daughter to assist in paying her bills.
3. On October 19, 2023, MDHHS issued a Verification Checklist (VCL), requesting that Petitioner submit verification of donations or contributions from an individual outside of her FAP group to MDHHS by October 30, 2023 (Exhibit A, pp. 10-12).
4. Petitioner timely submitted all requested verifications.
5. On October 18, 2023, MDHHS issued a Notice of Case Action to Petitioner, informing her that her FAP case was closed for failure to return requested verifications (Exhibit A, pp. 5-9).

6. On October 17, 2023, MDHHS received Petitioner's timely submitted hearing request disputing the closure of her FAP case (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.

In this case, Petitioner's FAP case was closed, effective October 1, 2023, for failure to return verification of income from donations or contributions. MDHHS testified that Petitioner's case is now pending, and it appears as though all requested verifications have been received and must be processed.

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. MDHHS must obtain verification for a reported change affecting eligibility or benefit level. BAM 130 (October 2023), p. 1. MDHHS should only send 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. A donation to an individual by family or friends is the individual's unearned income. MDHHS counts the gross amount actually received, if the individual making the donation and the recipient are not members of any common eligibility determination group. BEM 503 (January 2023), p. 11. Loan proceeds are excluded from an individual's income if it is a bona fide loan, meaning that: a loan contract or the lender's written statement clearly indicating the borrower's indebtedness, an acknowledgment from the borrower of the loan obligation, and the borrower's expressed intent to repay the loan by pledging real or individual property or anticipated income. BEM 503, p. 25. In this case, Petitioner reported to MDHHS that she receives \$ [REDACTED] per month from her adult daughter in order to pay her utility bills. This prompted MDHHS to issue a VCL to Petitioner requesting verification of the contribution that she receives from her daughter. While Petitioner argues that these funds are a loan rather than a donation, at issue is that MDHHS closed Petitioner's FAP case for failure to return verification of this income. MDHHS conceded that Petitioner's adult daughter had submitted a letter to MDHHS regarding the amount that Petitioner is given. MDHHS testified that nothing further is needed in order to process Petitioner's FAP eligibility. Therefore, MDHHS did

not act in accordance with policy in closing Petitioner's FAP case for failure to return requested verification.

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 the Department did not act in accordance with Department policy when it closed Petitioner's FAP case.

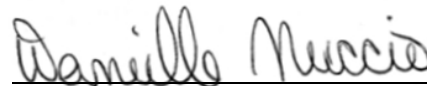
DECISION AND ORDER

Accordingly, the Department's 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. Reinstate Petitioner's FAP case as of October 1, 2023;
2. Begin recalculating the FAP budget for October 1, 2023 ongoing;
3. If Petitioner is eligible for FAP benefits, issue supplements to Petitioner for any FAP benefits she was eligible to receive but did not from October 1, 2023 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 :

Interested Parties

MDHHS-Wayne-19-Hearings
N. Denson-Sogbaka
B. Cabanaw
M. Holden
MOAHR
BSC4

Via-First Class Mail :

Petitioner

[REDACTED]
MI [REDACTED]