



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
SUZANNE SONNEBORN
EXECUTIVE DIRECTOR

MARLON BROWN
DIRECTOR

[REDACTED], MI [REDACTED]

Date Mailed: June 13, 2024
MOAHR Docket No.: 24-004919
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: L. Alisyn Crawford

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 June 3, 2024. Petitioner was present at the hearing and represented herself. The Department of Health and Human Services (Department) was represented by Sunshine Simonson, Eligibility Specialist.

ISSUE

Did the Department properly deny Petitioner's application for 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. On [REDACTED] 2023, the Department received Petitioner's application for FAP for her household of two. Petitioner disclosed her household's income to be comprised of self-employment "other" for Petitioner and Supplemental Security Income (SSI) for her minor child. (Exhibit A, pp. 14-20). In the application, Petitioner explained that she worked from home "doing odd jobs such as making treats for friends and family or decorating/[planning] parties and photography." She further explained that her income varied from month to month due to medical issues.
2. On February 2, 2024, the Department conducted a phone interview with Petitioner regarding her FAP application. (Exhibit A, pp. 21-27). During the phone interview, Petitioner provided a description of her self-employment activities, disclosed her

recent stroke and disability status, and explained that she receives monthly donations from family and friends to supplement her income.

3. On February 2, 2024, the Department sent Petitioner a Verification Checklist (VCL), which requested verification of Petitioner's self-employment income and verification of her disability to be provided to the Department by February 12, 2024. (Exhibit A, p. 38).
4. On February 9, 2024, Petitioner submitted a Self-Employment Income and Expense Statement form, where she noted that she has been unable to work and was not accepting clients since November 20, 2023 due to her medical issues. (Exhibit A, pp. 28-29). Petitioner also provided four screenshots from her Cash App account showing the following self-employment earnings:

<u>Date</u>	<u>Amount</u>
October 10, 2023	
November 8, 2023	
November 22, 2023	
February 2, 2024	

5. On February 12, 2024, Petitioner submitted a Medical Needs form for verification of her disability. (Exhibit A, pp. 11-13). The Medical Needs form was completed by a physical therapist assistant.
6. On February 13, 2024, the Department sent Petitioner a Notice of Case Action (NOCA) informing her that her FAP application was denied for failure to provide verification of her disability and self-employment earnings. (Exhibit A, pp. 40-41).
7. On April 17, 2024, the Department received Petitioner's request for hearing in which Petitioner disputes the Department's denial of her application. (Exhibit A, pp. 3-5).

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 is disputing the Department's decision to deny her request for FAP benefits. The Department denied Petitioner's FAP application for failure to provide requested verifications of her disability and self-employment income.

When it receives an application for assistance, the Department is required to obtain verification of information as required by policy or when information is unclear or incomplete. BAM 130 (October 2023), p. 1; BEM 500 (April 2022), pp. 13–14; BEM 505 (October 2023), p. 14. To obtain verification, the Department must tell the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. The client must obtain the requested verification, but the local office must assist the client if they need and request help. BAM 130, p. 3.

The Department allows the client ten calendar days to provide the requested verification and verifications are considered timely if received by the date that they are due. BAM 130, p. 7. For FAP, if verifications are not received, the Department sends a negative action notice when a) the client indicates a refusal to provide the requested verification, or b) the time period given on the VCL has lapsed and the client has **not** made a reasonable effort to provide it. BAM 130, p. 7 (emphasis in original).

In this case, Petitioner applied for FAP benefits for herself and her minor child on [REDACTED] 2023. (Exhibit A, pp. 14-20). Petitioner attempted to provide timely verifications to the Department. The Department testified that the verifications provided were inaccurate or inconsistent. For the provided Medical Needs form, the instructions note that the form must be completed by a physician, physician assistant, nurse practitioner, clinical nurse specialist, physical or occupational therapist. (Exhibit A, pp. 11-13). However, the form was instead signed by a physical therapist assistant and the Department determined that the form was not acceptable due to the health care provider who signed it.

The Department may request verifications when required by policy or the local office or when information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory. BAM 130, p. 1. While a medical needs form may be required to determine whether a client can be deferred from FAP work responsibilities, Petitioner, who provides care of a child under age 6 (Exhibit A, p. 15), is deferred from FAP work obligations. See BEM 230B (April 2024), p. 4. And while a client's status as disabled is relevant to determining their status as a senior/disabled/disabled veteran (SDV) member of the FAP household, a medical needs form is not the required verification source to determine SDV status. See BEM 550 (February 2024), P. 5-6. Even if Petitioner is not an SDV member, she may still be eligible for FAP. The Department did not establish that it had a local office policy requiring all FAP applicants alleging a disability to complete a medical needs form. Because the Department failed to establish that verification of Petitioner's alleged disability was required, it improperly denied Petitioner's application due to an insufficient medical needs form.

The Department also contended that Petitioner's FAP application was denied because she failed to verify her self-employment income. For purposes of the FAP program, self-

employed individuals may verify income and expenses with a completed Self-Employment Income and Expense Statement with receipts in support of the claimed expenses, if any. BEM 502 (October 2019), p. 8. Petitioner provided the Self-Employment Income and Expense Statement with Cash App receipts to the Department. The Department noted inconsistencies in Petitioner statements regarding her self-employment income. On the form, Petitioner stated that she had not worked since November 20, 2023 but she provided Cash App receipts that included earnings on November 8 and 23, 2023.

Given the discrepancies between Petitioner's statements and her provided Cash App receipts, the Department should have requested a verification from Petitioner. The Department is required to request verification when an eligibility factor is unclear by sending a VCL. BAM 130, p. 1. While Petitioner has primary responsibility for obtaining verification, the Department should not deny assistance because an individual is unable to verify income and should assist the individual in obtaining verification when requested. BEM 502 (October 2019), pp. 6-7. The Department is required to give clients a reasonable opportunity to resolve any discrepancies between their statements and information from another source and it did not do so here.

Further, the self-employment form provided did not specify that Petitioner was required to submit income receipts for three months, as well as for which months, for verification purposes. Therefore, the Department failed to clearly notify Petitioner of what verifications she needed to provide.

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 denied Petitioner's FAP application for failure to provide requested verifications.

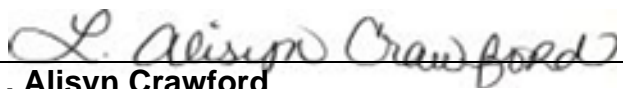
DECISION AND ORDER

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. Reprocess Petitioner's [REDACTED] 2023 FAP application;
2. Notify Petitioner in writing if additional verifications are requested;
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 December 17, 2023 ongoing; and
4. Notify Petitioner of its decision in writing.

LC/ml


L. Alisyn Crawford
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

Tara Roland 82-17

Wayne-Greenfield/Joy-DHHS

8655 Greenfield

Detroit, MI 48228

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Interested Parties

BSC4

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MOAHR

Via First Class Mail:

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