



GRETCHEN WHITMER  
GOVERNOR

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

MARLON I. BROWN, DPA  
DIRECTOR

[REDACTED]  
[REDACTED], MI [REDACTED]

Date Mailed: June 12, 2024  
MOAHR Docket No.: 24-005087  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Christian Gardocki

### **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 via telephone conference on June 5, 2024. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Remy Williams, specialist.

### **ISSUE**

The issue is whether MDHHS properly determined Petitioner's Food Assistance Program (FAP) eligibility.

### **FINDINGS OF FACT**

The administrative law judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. As of April 2024, Petitioner was an ongoing recipient of FAP benefits.
2. On April 19, 2024, Petitioner requested a hearing to dispute a reduction in FAP benefits.
3. On an unspecified date after Petitioner's hearing request, MDHHS increased Petitioner's FAP eligibility.
4. On an unspecified date, Petitioner reported to MDHHS conflicting amounts concerning out-of-pocket rent paid for a subsidized rental unit.
5. On April 29, 2024, MDHHS mailed Petitioner a Verification Checklist (VCL) requesting verification of rent by May 9, 2024. A lease was listed as an example of acceptable verification.

6. As of May 10, 2024, Petitioner did not submit to MDHHS proof of rent expenses.
7. On May 10, 2024, MDHHS determined Petitioner to be eligible for \$187 in monthly FAP benefits beginning June 2024.
8. On approximately May 14, 2024, Petitioner returned to MDHHS a lease verifying Petitioner's total monthly rent, but not Petitioner's unsubsidized portion of rent.

### **CONCLUSIONS OF LAW**

The 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 the FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011. FAP policies are contained in the BAM, BEM, and RFT.

Petitioner requested a hearing to dispute an unspecified reduction in FAP benefits. Exhibit A, pp. 3-4. MDHHS testified Petitioner previously requested a hearing and that Petitioner's FAP eligibility was updated in April 2024. Petitioner appeared content with the update; however, MDHHS later updated Petitioner's housing expenses which resulted in a reduction in FAP benefits.<sup>1</sup> A Notice of Case Action dated May 10, 2024, stated that Petitioner's FAP eligibility was reduced to \$187 beginning June 2024 due to a change in shelter expenses. Petitioner's only dispute over FAP eligibility appeared to only concern shelter expenses.

Petitioner resided in subsidized housing. If an expense is partially reimbursed or paid by an agency or someone outside of the FAP group, MDHHS is to allow only the amount that the group is responsible to pay. BEM 554 (February 2024) p. 2. Thus, only unsubsidized portions of housing payments are countable in a FAP determination.

After MDHHS increased Petitioner's FAP eligibility, MDHHS testified that clarification of Petitioner's housing expenses was still needed. A specialist testified she interviewed Petitioner about housing expenses and Petitioner reporting conflicting amounts about her out-of-pocket monthly payment. If considered questionable, MDHHS is to verify shelter expenses at application and when a change is reported. *Id.*, p. 15. MDHHS reasonably concluded that Petitioner's conflicting reporting was questionable and required Petitioner to verify rental expenses.

For all programs, MDHHS is to tell the client what verification is required, how to obtain it, and the due date. BAM 130 (January 2023) p. 3. MDHHS is to use the DHS-3503,

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<sup>1</sup> Arguably, there is no administrative hearing jurisdiction for Petitioner's dispute. Petitioner requested a hearing on April 19, 2024. The evidence suggested that MDHHS resolved the dispute after updating Petitioner's FAP eligibility. Thus, Petitioner's current dispute appears to concern an action by MDHHS taken weeks after Petitioner requested a hearing. Generally, administrative hearing jurisdiction does not exist for disputed MDHHS actions taken after the hearing request. Jurisdiction will be found in the present case as MDHHS's later action is related to the FAP eligibility update initially disputed by Petitioner.

Verification Checklist (VCL) to request verification. *Id.* MDHHS is to allow the client 10 calendar days (or other time limit specified in policy) to provide the verification that is requested. *Id.*, p. 7. MDHHS is to 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. *Id.*

On April 29, 2024, MDHHS sent Petitioner a VCL requesting verification of rent by May 9, 2024. Exhibit A, pp. 7-9. Examples of acceptable verification included a lease. MDHHS contended it properly excluded Petitioner's FAP eligibility when Petitioner failed to return verification by May 10, 2024. MDHHS later received a lease from Petitioner on May 14, 2024 which verified Petitioner's total rent. MDHHS concluded the lease was unacceptable verification because it did not verify Petitioner's out-of-pocket cost for rent.

The evidence established that Petitioner did not timely verify rent. The evidence also established that Petitioner did not return verification of out-of-pocket rent amount. However, MDHHS did not specifically request proof of Petitioner's portion of rent. As stated above, MDHHS must inform the client of the needed verification. Technically, Petitioner complied with the VCL request for rent by submitting one of the examples on the VCL listed as acceptable verification. MDHHS could have specified on the VCL that Petitioner needed to verify her portion of the rent; however, no such specification was included on the VCL.

Given the evidence, Petitioner did not fail to verify out-of-pocket rent expenses. Thus, MDHHS improperly reduced Petitioner's FAP eligibility beginning June 2024.

**DECISION AND ORDER**

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly determined Petitioner's FAP eligibility. It is ordered that MDHHS commence the following actions within 10 days of the date of mailing of this decision:

- (1) Redetermine Petitioner's FAP eligibility beginning June 2024 subject to the finding that Petitioner did not fail to verify housing expenses; and
- (2) Issue supplements and notice, if any, in accordance with policy

The actions taken by MDHHS are **REVERSED**.

CG/ml

  
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**Christian Gardocki**  
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**

Richard Latimore  
Wayne-Conner-DHHS  
4733 Conner  
Detroit, MI 48215

**MDHHS-Wayne-57-Hearings@michigan.gov**

**Interested Parties**

BSC4  
M Holden  
B Cabanaw  
N Denson-Sogbaka  
MOAHR

**Via First Class Mail:**

**Petitioner**

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