



GRETCHEN WHITMER
GOVERNOR

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

MARLON BROWN
DIRECTOR

██████████
██████████
██████████, MI ██████████

Date Mailed: June 11, 2024
MOAHR Docket No.: 24-005088
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Julia Norton

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 6, 2024. Petitioner was present and self-represented. The Department of Health and Human Services (Department) was represented by Errol Jackson, Eligibility Specialist, and Ahmed Elahrag, Assistance Payment Supervisor.

ISSUE

Did the Department properly deny Petitioner's Food Assistance Program (FAP) application for failure to return requested verifications?

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 ██████████ 2024, Petitioner electronically submitted a FAP application for herself and her four children to the Department. Exhibit A, pp. 7-14.
2. Petitioner reported she and her children, ██████████ (██████ years old) and ██████████ (██████ years old), have self-employment income. Exhibit A, pp. 6, 31.
3. On April 3, 2024, Petitioner provided income tax Schedule C documents for herself, ██████████ and ██████████. Exhibit A, p. 35.
4. On April 4, 2024, the Department sent Petitioner a Verification Checklist (VCL) with a due date of April 15, 2024, requesting, in relevant part, proof of self-employment. Exhibit A, pp. 20-23. To verify self-employment, the VCL requested one of the following proofs: recent business receipts to date, recent accounting or other business records to date, or recent income tax return.

5. On April 29, 2024, the Department sent Petitioner a Notice of Case Action (NOCA) indicating that Petitioner was denied FAP benefits for April 4, 2024 ongoing because Petitioner failed to provide required verification of identity. Exhibit A, pp. 15-19.
6. On May 7, 2024, the Department received Petitioner's verbal request for hearing disputing the Department's denial of her FAP application for failing to provide verifications. 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 disputes the Department's denial of her FAP application for failing to submit requested verifications. The NOCA indicated that Petitioner had not provided the required verification of identity. At the hearing, the Department explained that the NOCA was incorrect and should have indicated Petitioner failed to return the DHS-431 Self Employment and Expense forms for Petitioner, ■■■ and ■■■.

Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (October 2023), p. 1. To request verification of information, the Department sends a VCL which tells the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. The Department must allow the client 10 calendar days to provide the verification that is requested. Verifications are considered timely if received by the date they are due. BAM 130, p. 7. The Department sends a negative action notice when the client indicates a 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.

For FAP benefits, the primary verification source for self-employment income is an income tax return, if that return is representative of future income. BEM 502 (June 2024), p. 7. Secondary verification is the DHS-431 with receipts, followed by the DHS-431 without receipts. Verification for self-employment expenses is the DHS-431. *Id.*, p. 8. Here, the Department sent Petitioner a VCL on April 4, 2024. The VCL requested a variety of verifications, but only the self-employment verification is disputed. When the

Department sends a client a VCL, the Department must tell the client what verification is required and how to obtain it. Regarding self-employment, the VCL requested Petitioner provide one of the following proofs for herself, ■■■ and ■■■: recent business receipts to date, recent accounting or other business records to date, recent income tax return. Exhibit A, p. 21. The VCL also requested “proof of self-employment/expense records over the last year. Examples of proof include copies of check stubs, self-employment records or a statement from your source of income.” Exhibit A, p. 22. The VCL contained no indication that the Department would only accept the DHS-431 as verification of self-employment income and expenses.

Petitioner’s testimony and the evidence presented show Petitioner timely submitted income tax Schedule C documents for herself, ■■■ and ■■■ on April 3, 2024, in advance of the April 15, 2024 VCL due date. Exhibit A, p. 35. The Department explained that because Petitioner reported fluctuating self-employment income during the FAP interview, the Department wanted DHS-431 forms. However, the FAP interview was completed the day *after* the VCL issued. The VCL did not indicate that the DHS-431 forms were the only acceptable verifications for self-employment income and expenses, nor did it instruct Petitioner to submit only DHS-431 forms to the exclusion of all other listed self-employment and expense proof examples. The Department did not act in accordance with Department policy when it denied Petitioner’s FAP application for failing to return DHS-431 verifications.

Although Petitioner expressed valid concerns about the failure of the NOCA to properly notify her of the basis for the denial of her FAP application and the NOCA did not comply with the requirements of BAM 200 (November 2023), p. 2, this error is harmless in this case where it is found that the Department did not act in accordance with policy when it denied Petitioner’s FAP application for the reasons it identified above.

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.

DECISION AND ORDER

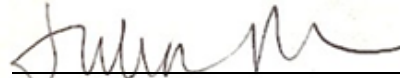
Accordingly, the Department’s decision is **REVERSED**.

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 FAP application, requesting additional verifications if necessary;

2. If eligible for FAP benefits, supplement Petitioner for FAP benefits she was eligible to receive from April 4, 2024 ongoing; and
3. Notify Petitioner of its decision in writing.

JN/cc



Julia Norton
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-Washtenaw-Hearings
BSC4-HearingDecisions
N. Denson-Sogbaka
B. Cabanaw
M. Holden
MOAHR

Via-First Class Mail :

Petitioner

██████████
██████████
██████████ MI ██████████