



STATE OF MICHIGAN

GRETCHEN WHITMER
GOVERNOR

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: August 22, 2024
MOAHR Docket No.: 24-008252
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun

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 August 20, 2024, from Detroit, Michigan. Petitioner appeared for the hearing with his son [REDACTED] and represented himself. The Department of Health and Human Services (Department) was represented by Danielle Moton, Assistance Payments Worker. Muhammand Hamdok served as Arabic interpreter.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) case?

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. During a redetermination interview in October 2023, Petitioner reported that he receives monthly rental income from two apartment units.
3. In connection with a semi-annual contact report, Petitioner's eligibility to receive FAP benefits was reviewed. Petitioner timely submitted the semi-annual contact report to the Department on or around March 18, 2024.
4. With the semi-annual contact report, Petitioner submitted proof of his earned income. Because Petitioner did not submit proof of his rental income, the Department issued a Verification Checklist (VCL) on May 13, 2024, instructing

Petitioner to submit, among other things, verification of the rental agreement/rental income by May 23, 2024. (Exhibit A, pp. 13, 24-31)

5. On or around May 22, 2024, Petitioner submitted a bank statement, vehicle documents, utility bill, a tax return, and lease agreements.
6. On or around July 3, 2024, the Department sent Petitioner a Notice of Case Action advising him that effective May 1, 2024, his FAP case was closed because he failed to provide information within a specified timeframe. The Department asserted that Petitioner failed to submit proof of his rental income. (Exhibit A, pp. 8-13)
7. On or around July 9, 2024, Petitioner requested a hearing disputing the Department's closure of his FAP case. Petitioner indicated that he submitted verification of his rental income, specifically, two apartment leases on May 22, 2024. (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 requested a hearing to dispute the closure of his FAP case effective May 1, 2024.

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 verification checklist (VCL) which tells the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. Although the client must obtain the required verification, the Department must assist if a client needs and requests help. If neither the client nor the Department can obtain the verification despite a reasonable effort, the Department is to use the best available information; and if no evidence is available, the Department is to use its best judgment. BAM 130, p. 3.

For FAP cases, clients are given 10 calendar days to provide the verifications requested by the Department. Verifications are considered to be timely if received by the date they

are due. 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, pp. 7-8.

The Department representative testified that Petitioner's FAP case was closed because he failed to timely return verification of his rental income as instructed in the VCL. The Department representative testified that although Petitioner returned some of the requested verifications, Petitioner failed to submit proof of the income he receives from his rental properties. As a result, the Department issued a Notice of Case Action on July 3, 2024, closing Petitioner's FAP case effective May 1, 2024. At the hearing, Petitioner testified that he submitted all of the requested verifications on May 22, 2024. He testified that he dropped the documents off to the local office. Petitioner credibly testified that to verify the rental income he receives, he submitted two lease agreements for the apartment units located above his. Although the Department representative initially testified that Petitioner failed to submit any documentation of his rental income, during the hearing, the Department reviewed the documents submitted by Petitioner and received by the Department on May 22, 2024. The Department acknowledged that Petitioner had submitted the first page of two lease agreements that identified the same address as Petitioner. The lease agreements indicated that Petitioner was the landlord and the amount of monthly rent. Petitioner testified that he lives in the lower apartment unit and that there are two apartment units above him that he receives rental income for. The Department testified that because the lease agreements were not signed, they were not acceptable verification. However, upon review, the evidence established that Petitioner made a reasonable effort to obtain and submit the requested verifications and did not indicate a refusal to submit the requested verification of rental income.

Therefore, 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 effective May 1, 2024.


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 effective May 1, 2024;
2. Issue FAP supplements to Petitioner for any benefits he was eligible to receive but did not from May 1, 2024, ongoing, in accordance with Department policy; and
3. Notify Petitioner in writing of its decision.

ZB/ml


Zainab A. Baydoun
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

M Holden

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N Denson-Sogbaka

MOAHR

Via First Class Mail:

Petitioner

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