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GOVERNOR

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

Date Mailed: December 18, 2024
MOAHR Docket No.: 24-012711
Agency No.: ██████████
Petitioner: ██████████ ██████████

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 Microsoft Teams on December 12, 2024; the parties participated by telephone. Petitioner appeared and was unrepresented. ██████████ ██████████ Petitioner's son, participated as an Arabic-English translator. The Michigan Department of Health and Human Services (MDHHS) was represented by Jamila Goods, specialist.

ISSUE

The issue is whether MDHHS properly terminated 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 August 2024, Petitioner received ongoing FAP benefits with a benefit period certified through September 2024. Petitioner's FAP eligibility was based on \$████████ in gross monthly wages from a limited liability company (LLC) owned by Petitioner.
2. On August 12, 2024, Petitioner submitted to MDHHS a Semi-Annual Contact Report (SACR) reporting no changes from the \$████████ in gross monthly income budgeted by MDHHS.

3. On August 29, 2024, MDHHS mailed Petitioner a Verification Checklist (VCL) requesting by September 9, 2024, an employer statement or check stubs verifying Petitioner's last 30 days of income.
4. On September 6, 2024, Petitioner submitted to MDHHS copies of checks listing \$500 in weekly payments to Petitioner.
5. On September 17, 2024, MDHHS mailed Petitioner a Quick Note stating that copies of checks are unacceptable verifications of income.
6. On September 26, 2024, Petitioner submitted correspondence to MDHHS stating that he earns \$[REDACTED] in gross weekly wages from his LLC.
7. On October 31, 2024, MDHHS terminated Petitioner's FAP eligibility beginning October 2024.
8. On November 13, 2024, Petitioner requested a hearing to dispute the closure of FAP benefits.

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 Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute a termination of FAP benefits. Exhibit A, pp. 3-5. A Notice of Case Action dated October 31, 2024, stated that Petitioner's FAP eligibility ended beginning October 2024 due to a failure to verify income. Exhibit A, pp. 28-31. MDHHS testified that Petitioner's FAP eligibility ended as part of a semi-annual review.

For cases with employment income, MDHHS sends a SACR at the beginning of the fifth month for cases assigned a 12-month benefit period. BAM 210 (January 2024) p. 11. A report is considered complete when all sections (including the signature section) are answered completely and required verifications are returned. *Id.*, p. 12. SACRs are pre-filled with the client's gross earned income from his/her most current budget. *Id.*, p. 13. If the client's gross income has changed by more than \$125 from the pre-filled amount on the form, he/she must return verification of his/her past 30 days of earnings with his/her completed form. *Id.* If the client indicates his/her gross earned income has not changed by more than \$125, verification of the past 30 days is not required. *Id.* However, income must be updated and processed if a client checks "No" to the questions but supplies proof of income. *Id.* Verification of income may include an employer statement. BEM 501 (January 2024) pp. 11-12.

For all programs, MDHHS is to inform the client what verification is required, how to obtain it, and the due date. BAM 130 (January 2022) p. 3. MDHHS is to use the VCL to request verification. *Id.* For FAP, MDHHS is to allow the client at least 10 calendar days to provide the verification that is requested. *Id.*, p. 8. For reviews, verifications must be provided by the end of the current benefit period or within 10 days after they are requested, whichever allows more time. BAM 210 (April 2022) pp. 17-18. The group loses its right to uninterrupted benefits if verifications are not returned. *Id.*, p. 22.

On a SACR, Petitioner reported to MDHHS ongoing wages of \$[REDACTED] per month stemming from an LLC owned by Petitioner. Exhibit A, pp. 7-9. MDHHS responded by sending Petitioner a VCL on August 29, 2024, requesting proof of 30 days of income; the VCL specifically stated that check stubs and/or a statement from the employer were acceptable sources. Exhibit A, pp. 25-27. Petitioner timely responded to the VCL on September 6, 2024, by returning to MDHHS copies of \$[REDACTED] weekly checks payable to Petitioner. Exhibit A, p. 13. On September 17, 2024 sent Petitioner written notice stating the copies of checks were unacceptable verifications of income. Exhibit A, p. 20. Petitioner responded by sending MDHHS on September 26, 2024, a written statement that he pays himself \$[REDACTED] per week. Exhibit A, p. 21.

MDHHS contended that Petitioner's FAP eligibility properly ended after Petitioner failed to adequately verify income as part of a semi-annual review. MDHHS's contention was unpersuasive for two reasons.

To establish proper case closure based on a client's failure to verify, MDHHS must first establish that verification was required. MDHHS may only request verification of income as part of a semi-annual review when a change of income is reported. In the present case, Petitioner did not report a change from the \$[REDACTED] in gross monthly income listed on the SACR. In fact, Petitioner's return of check copies listing \$500 in weekly income is consistent with \$[REDACTED] in monthly income after a multiplier of 4.3 is applied to weekly income of \$[REDACTED] to convert it to a monthly income (see BEM 505). Because Petitioner reported no change in income, MDHHS had no basis to request verification of income as part of a semi-annual review.

Secondly, Petitioner timely returned verification of income to MDHHS. The VCL sent to Petitioner on August 29, 2024, stated that an employer statement was acceptable verification of income. Exhibit A, pp. 25-27. Assuming that copies of checks (as opposed to check stubs) are not acceptable verification, Petitioner returned to MDHHS an employer statement on September 26, 2024. Petitioner authored the employer statement; however, Petitioner was indeed the owner of the LLC.¹ MDHHS provided no explanation as to why Petitioner's statement was unacceptable or how Petitioner otherwise failed to comply with the VCL. Given the evidence, MDHHS improperly terminated Petitioner's FAP benefit eligibility beginning October 2024 based on Petitioner's alleged failure to verify income.

¹ Petitioner also stated that he was an independent contractor. MDHHS may want to investigate if an LLC owner can pay himself/herself as an independent contractor.

DECISION AND ORDER


The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly terminated 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) Reprocess Petitioner's FAP eligibility beginning October 2024 subject to the following findings:
 - a. MDHHS had no basis to request verification of income from Petitioner as part of a semi-annual review;
 - b. Petitioner timely verified employment income as part of a semi-annual review; and

(2) Issue notice and supplements, if any, in accordance with all MDHHS policy.

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

CG/nr



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

Susan Noel
Wayne-Inkster-DHHS
26355 Michigan Ave
Inkster, MI 48141

MDHHS-Wayne-19-Hearings@michigan.gov

Interested Parties

BSC4
M. Holden
N. Denson-Sogbaka
B. Cabanaw
MOAHR

Via-First Class Mail :

Petitioner

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