



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]
[REDACTED], MI [REDACTED]

Date Mailed: December 18, 2024
MOAHR Docket No.: 24-012773
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 Microsoft Teams on December 12, 2024; the parties participated by telephone. Petitioner participated and was not represented. The Michigan Department of Health and Human Services (MDHHS) was represented by Alice Gilmer, manager, and Crystal Stephens, specialist.

ISSUES

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 October 2024, Petitioner was an ongoing FAP benefit recipient reporting no ongoing wages. Petitioner also reported an obligation for utilities and property taxes.
2. On an unspecified date, MDHHS initiated a front-end eligibility (FEE) investigation based on Petitioner reporting expenses with no apparent income.
3. On October 18, 2024, MDHHS mailed Petitioner a Verification of Employment to be returned to MDHHS within 10 days.

4. On November 1, 2024, MDHHS received a FEE investigation report concluding that Petitioner may be receiving ongoing employment income, in part, based on Facebook postings favorable for a local bar and a business registered in Petitioner's name which was not "in good standing" with the State of Michigan.
5. As of November 1, 2024, Petitioner did not return to MDHHS the Verification of Employment and continued to report to MDHHS that she was not employed.
6. On November 1, 2024, MDHHS terminated Petitioner's FAP eligibility beginning December 2024 due to Petitioner's failure to verify income.
7. On November 8, 2024, Petitioner requested a hearing to dispute the termination 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 November 1, 2024, stated that Petitioner's FAP eligibility would end December 2024 due to a failure to verify self-employment income. Exhibit B, pp. 1-4.

MDHHS is to verify countable wages when questionable. BEM 501 (January 2024) p. 10. 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, 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.*

MDHHS testified it sent Petitioner a Verification of Employment on October 18, 2024, requesting proof of employment. Petitioner acknowledged not returning the requested verification though it was not disputed that she informed MDHHS that she had no income to be verified. The only issue is whether MDHHS was justified in its request to verify income.

MDHHS explained that Petitioner was an ongoing FAP recipient with suspicious reported circumstances. Petitioner testified she had not been employed since "much

before” the pandemic of 2020. Despite an apparent lack of income for an extended period, Petitioner also reported to MDHHS ongoing expenses such as utilities and property taxes.¹ Because of its suspicions, MDHHS launched a FEE investigation of Petitioner’s circumstances.

On November 1, 2024, an investigator sent Petitioner’s specialist a report concluding that Petitioner may be receiving income from self-employment and/or employment with a bar. Exhibit A, pp. 9-11. The investigator noted that Petitioner was associated with a business incorporated in February 2021, and not in good standing as of March 2024. Association with a business “not in good standing” as of several months earlier is not indicative of ongoing wages. The investigator also noted that Petitioner’s Facebook account made frequent posts concerning a local bar. The investigator suspected that Petitioner may be an employee of a bar. Petitioner testified her Facebook posts were intended to promote business for the bar. Promotion of a business on social media is not persuasive evidence of employment.

Even the FEE investigator did not conclude that MDHHS initiate case closure yet. The FEE investigator reasonably recommended that MDHHS send the bar promoted by Petitioner a request for information concerning Petitioner’s possible employment; MDHHS instead initiated FAP benefit termination.

Given the evidence, MDHHS failed to establish that Petitioner received verifiable earnings.² Without sufficient evidence of earnings, Petitioner’s FAP eligibility cannot be ended due to a failure to verify earnings. Accordingly, it is found that MDHHS improperly terminated Petitioner’s FAP eligibility beginning December 2024.

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) Reinstate Petitioner’s FAP eligibility beginning December 2024 subject to the finding that MDHHS failed to establish that Petitioner received wages requiring verification; and
- (2) Issue notice and supplements, if any, in accordance with policy.

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

CG/nr



Christian Gardocki

Administrative Law Judge

¹ Petitioner claimed the expenses were paid by third parties.

² This decision can make no conclusions as to whether Petitioner had earnings. It may only be concluded that earnings for Petitioner were not established by MDHHS.

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

Denise Key-McCoggle
Wayne-Greydale-DHHS
27260 Plymouth Rd
Redford, MI 48239

MDHHS-Wayne-15-Greydale-Hearings@michigan.gov

Interested Parties

BSC4

M. Holden

N. Denson-Sogbaka

B. Cabanaw

MOAHR

Via-First Class Mail :

Petitioner

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