



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

ORLENE HAWKS
DIRECTOR

[REDACTED]

Date Mailed: January 16, 2019
MAHS Docket No.: 18-013003
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: John Markey

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 January 9, 2019, from Lansing, Michigan. Petitioner appeared and represented himself. The Department of Health and Human Services (Department) was represented by Kimberly Wardell, Assistance Payments Supervisor. During the hearing, an 18-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-18.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefits case for allegedly failing to participate in the Redetermination process?

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 FAP recipient in a group of one. His benefit period ran through November 31, 2018.
2. On September 4, 2018, the Department issued to Petitioner a Redetermination, Form DHS-1010, in order to gather relevant information regarding Petitioner's ongoing eligibility for FAP benefits. Petitioner was required to return the completed form by October 4, 2018. The document informed Petitioner that Petitioner would receive a phone call from his specialist from DHHS on October 4, 2018, at 9:30 am for the purposes of conducting a Redetermination interview. The document warned

Petitioner that failure to keep the October 4, 2018, appointment or turn in any of the required documents by the due date could result in the expiration of his FAP benefits. Further, the document directed Petitioner to contact his specialist by the due date if he needed any assistance. Exhibit A, pp. 5-12.

3. On [REDACTED] 2018, Petitioner returned to the Department the completed Redetermination. Exhibit A, pp. 5-12.
4. On October 4, 2018, Petitioner's specialist did not call at any point in time.
5. On October 4, 2018, the Department issued to Petitioner a Notice of Missed Interview informing Petitioner that he "missed" his scheduled Redetermination interview. The document warned Petitioner that his FAP case would be closed unless he took further action to ensure that the interview was rescheduled on or before November 30, 2018. The document then included contact information for the Department specialist with directions to call that number to reschedule the interview. Exhibit A, p. 14.
6. Within one week of being issued the October 4, 2018, Notice of Missed Interview, Petitioner called his specialist in order to reschedule the interview. Petitioner's specialist did not answer the phone, so Petitioner left a message. Exhibit A, p. 13.
7. On November 9, 2018, the Department issued to Petitioner a Notice of Case Action informing Petitioner that his FAP case was closing, effective December 1, 2018. Exhibit A, pp. 15-18.
8. On November 16, 2018, Petitioner called the Department and spoke with the specialist regarding another issue concerning a different program operated by the Department. During the conversation, no mention by either party was made of the Redetermination issue. Exhibit A, p. 13.
9. On [REDACTED], 2018, Petitioner submitted to the Department a request for hearing objecting to the Department's closure of his FAP case.

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's FAP case was due for redetermination as his benefit period was coming to an end on November 30, 2018. Accordingly, the Department sent to Petitioner a Redetermination form on September 4, 2018, with a due date of October 4, 2018. The Redetermination informed Petitioner that he would be contacted via telephone on October 4, 2018, at 9:30 a.m. for a Redetermination interview. It further informed him that failure to return the completed Redetermination or participate in the Redetermination interview could result in his FAP case closing at the end of the benefit period. Petitioner timely returned the completed Redetermination on October 1, 2018. However, for some reason, the Department did not properly process this submission before the October 4, 2018, deadline.

When the time came for the Redetermination interview, Petitioner was ready, willing, and able to participate. However, the Department specialist failed to call Petitioner at the scheduled interview time on October 4, 2018. Instead, the Department issued Petitioner a Notice of Missed Interview wrongfully informing Petitioner that he "missed" the scheduled interview and that it was now his responsibility to reschedule. The Notice gave him instructions on how to avoid his case being closed at the end of November 2018. Petitioner diligently attempted to follow those instructions by calling the number on the form and leaving a message. However, when Petitioner was called back by the specialist, her calls went unanswered because Petitioner does not typically receive phone calls. When Petitioner finally did speak with the specialist prior to the closure of his FAP case, no mention was made of the Redetermination interview despite it still being well within the timeframe to complete the interview to avoid the closure of the FAP case. On December 1, 2018, the Department closed Petitioner's FAP case because of his alleged failure to participate in the Redetermination process.

Periodically, the Department must redetermine or renew a client's eligibility for FAP benefits by the end of each benefit period. BAM 210 (January 2018), pp. 1, 3. The redetermination process includes thorough review of all eligibility factors. BAM 210, p. 1. If a redetermination is not completed and a new benefit period certified, FAP benefits stop at the end of the benefit period. BAM 210, p. 3. Part of the redetermination process is an interview. BAM 210, p. 5. If a client misses the interview, the Department is required to send a Notice of Missed Interview. BAM 210, pp. 6-7. If the client then fails to reschedule and participate in the interview by the end of the month, the group loses its right to uninterrupted FAP benefits. BAM 210, p. 21.

While it is true that Petitioner's benefit period came to an end without Petitioner having completed the Redetermination process, Petitioner is in no way at fault. The Redetermination process includes a submission of paperwork and an interview. Petitioner timely submitted all of the paperwork he was required to submit. The Department failed to follow policy and properly process those submissions as being timely responses to the Redetermination. Likewise, Petitioner's failure to participate in a Redetermination interview prior to his benefit period ending was not for lack of effort on

his part. Petitioner was ready for the Redetermination interview. He did not “miss” the interview. Rather, his specialist never called like she was supposed to. Prior to his case closing, Petitioner made a reasonable effort to finish the process.

Petitioner’s benefit period was set to end, so the Department timely initiated the Redetermination process. Petitioner was clearly informed of the interview, the consequences for missing the interview, and how to avoid those consequences in a timely manner. Petitioner followed those instructions and took reasonable action before the benefit period had expired. The failure to complete the Redetermination process is attributable to the fact that the Department specialist missed the scheduled interview and failed to assist Petitioner in completing the Redetermination process when she had the opportunity to do so in November. In closing Petitioner’s FAP case, the Department failed to act according to Department policy.

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 failed to act in accordance with Department policy when it closed Petitioner’s FAP case.

DECISION AND ORDER

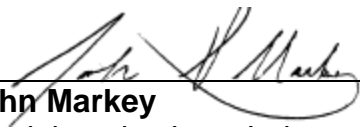
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Petitioner’s FAP case effective December 1, 2018.

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 December 1, 2018;
2. If Petitioner is eligible for additional benefits, issue Petitioner any supplemental benefits he may thereafter be due; and
3. Issue written notice of any case action(s) in accordance with Department policy.

JM/hb



John Markey
Administrative Law Judge
for Robert Gordon, Acting Director
Department of Health and Human Services

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 Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS 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. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MAHS Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

DHHS

LaClair Winbush
17455 Grand River
Detroit, MI 48227

Wayne County (District 31), DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

[REDACTED]