



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

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Date Mailed: February 1, 2019  
MAHS Docket No.: 18-013427  
Agency No.: ██████████  
Petitioner: ██████████

**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 24, 2019, from Detroit, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Jennifer Smith, Family Independence Specialist. During the hearing, a ten-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-10.

**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 recipient of FAP benefits.
2. On ██████████ 2018, the Department issued to Petitioner a Redetermination form to gather relevant information from Petitioner regarding Petitioner's ongoing eligibility for FAP benefits. (Exhibit A, pp. 1-8.)
3. Along with the Redetermination form, the Department issued to Petitioner a ██████████ 2018, Redetermination Telephone Interview notice informing Petitioner that she would receive a phone call from the Department on

December 5, 2018, to conduct an interview regarding Petitioner's FAP case. (Exhibit A, p. 9.)

4. Petitioner timely returned the completed Redetermination form before December 5, 2018.
5. On December 5, 2018, Petitioner's specialist from the Department did not call Petitioner at the scheduled interview time or anytime thereafter.
6. Instead, the Department issued to Petitioner a December 5, 2018, Notice of Missed Interview informing Petitioner that she "missed" her scheduled interview and that her FAP case would close at the end of December 2018 if she failed to reschedule the interview before the end of the month. (Exhibit A, p. 10.)
7. After receiving the Notice of Missed Interview, Petitioner attempted to contact her specialist both by phone and by email. None of her calls or emails were returned.
8. On December 18, 2018, Petitioner submitted to the Department a request for hearing objecting to the Department's action and the impending closure of her 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 her benefit period was coming to an end on December 31, 2018. Accordingly, the Department sent to Petitioner a Redetermination form on November 5, 2018, with a due date of December 5, 2018. The Redetermination informed Petitioner that she would be contacted via telephone on December 5, 2018, at 11:00 a.m. for a Redetermination interview. It further informed her that failure to return the completed Redetermination or participate in the Redetermination interview could result in her FAP case closing at the end of the benefit period. Petitioner timely returned the completed Redetermination on December 3, 2018. However, for some reason, the Department did not properly process this submission before the 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 December 5, 2018. Instead, the Department issued Petitioner a Notice of Missed Interview wrongfully informing Petitioner that she “missed” the scheduled interview and that it was now her responsibility to reschedule. The Notice gave her instructions on how to avoid her case being closed at the end of December 2018. Petitioner diligently attempted to follow those instructions by calling the number on the form and leaving a message as well as emailing her Department specialist. Her calls and emails went unreturned. On January 1, 2019, the Department closed Petitioner’s FAP case because of her 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 she was asked 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 her benefit period ending was not for lack of effort on her part. Petitioner was ready for the Redetermination interview. She did not “miss” the interview. Rather, her specialist never called like she was supposed to. Prior to her 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 December. 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**

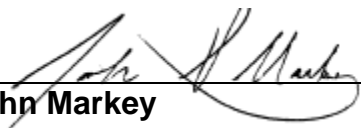
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Petitioner's FAP case effective January 1, 2019.

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 January 1, 2019;
2. If there are any outstanding verifications needed to determine ongoing eligibility, issue clear requests for such verifications and give Petitioner sufficient opportunity to produce them;
3. If Petitioner is eligible for additional benefits, issue Petitioner any supplemental benefits she may thereafter be due; and
4. Issue written notice of any case action(s) in accordance with Department policy.

JM/jaf

  
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**John Markey**  
Administrative Law Judge  
for Robert Gordon, 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  
MDHHS-Wayne-31-Hearings

**Petitioner**

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[REDACTED] MI [REDACTED]

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M Holden  
D Sweeney