



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: September 10, 2019
MOAHR Docket No.: 19-008420
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 September 4, 2019 from Detroit, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Alberta Frazier, Family Independence Specialist. During the hearing, a 15-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-15.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefits case, effective July 1, 2019?

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 from the Department. Petitioner's benefit period ran through June 30, 2019.
2. On May 4, 2019, the Department issued to Petitioner a Redetermination packet in order to gather relevant information regarding Petitioner's ongoing eligibility for FAP benefits. Petitioner was required to return the completed form by June 3, 2019. The document informed Petitioner that Petitioner would receive a phone call from her specialist from DHHS on June 3, 2019, at 2:00 pm for the purposes of conducting a Redetermination interview. The document warned Petitioner that

failure to keep the June 3, 2019, appointment or turn in any of the required documents by the due date could result in the expiration of her FAP benefits. Further, the document directed Petitioner to contact her specialist by the due date if she needed any assistance. Exhibit A, pp. 6-14.

3. On [REDACTED] 2019, Petitioner returned to the Department the completed Redetermination via electronic submission on her online account with the Department.
4. On June 3, 2019, Petitioner's specialist did not call Petitioner at any point in time.
5. On June 3, 2019, the Department issued to Petitioner a Notice of Missed Interview informing Petitioner that she "missed" her scheduled Redetermination interview. The document warned Petitioner that her FAP case would be closed on July 1, 2019 unless she took further action to ensure that the interview was rescheduled on or before June 30, 2019. The document then included contact information for the Department specialist with directions to call that number to reschedule the interview. Exhibit A, p. 15.
6. On June 3, 2019 shortly after the scheduled interview time, Petitioner called the Department in an effort to determine why she did not receive her Redetermination interview call. Nobody answered, and Petitioner did not receive a call back.
7. On June 4, 2019, Petitioner sent her specialist an email asking her specialist why she did not call Petitioner for the scheduled Redetermination interview. Petitioner never received a response to the email.
8. On July 1, 2019, Petitioner's FAP benefits case closed as a result of the Department's determination that Petitioner had not completed the Redetermination process.
9. On [REDACTED] 2019, Petitioner submitted to the Department a request for hearing objecting to the Department's closure of her FAP benefits 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 June 30, 2019. Accordingly, the Department sent to Petitioner a Redetermination form on May 4, 2019 with a due date of June 3, 2019. The Redetermination informed Petitioner that she would be contacted via telephone on June 3, 2019, at 2:00 p.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 [REDACTED], 2019. However, the Department's records show that Petitioner failed to submit the Redetermination.

When the time came for the Redetermination interview, Petitioner was ready, willing, and able to participate. However, the Department failed to call Petitioner at the scheduled interview time on June 3, 2019. 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 June 2019. Petitioner diligently attempted to follow those instructions by calling the number on the form and leaving messages in addition to directly emailing her worker with her concerns. On July 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 (April 2019), 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 required to submit. The Department failed then to follow policy in processing those submissions and carrying out its subsequent obligations in the Redetermination process. 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, Petitioner's specialist never called like he or she was supposed to. Prior to her case closing, Petitioner made a reasonable effort to finish the process by calling the number provided on the Notice of Missed Interview repeatedly and leaving multiple messages in addition to sending at least one email directly to her specialist.

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 facts that the Department failed to process Petitioner's Redetermination submissions, the Department specialist missed the scheduled interview, and the Department specialist subsequently failed to assist Petitioner in completing the Redetermination process when Petitioner sought out assistance thereafter. 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 did not act in accordance with Department policy when it closed Petitioner's FAP benefits case, effective July 1, 2019.

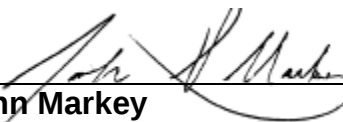
DECISION AND ORDER

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 back to the date of closure;
2. Process Petitioner's Redetermination;
3. If any eligibility-related factors remain unclear, inconsistent, incomplete, or contradictory, follow Department policy in requesting and processing verifications;
4. Determine Petitioner's eligibility for FAP benefits from the date of closure, ongoing;
5. If Petitioner is eligible for additional benefits that were not provided, ensure that a prompt supplement is issued; and
6. Notify Petitioner in writing of its decisions.

JM/cg


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 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 Email:

MDHHS-Wayne-15-Hearings
M. Holden
D. Sweeney
BSC4- Hearing Decisions
MOAHR

Petitioner – Via First-Class Mail:

[REDACTED]
[REDACTED]
[REDACTED]