



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], MI [REDACTED]

Date Mailed: January 31, 2020
MOAHR Docket No.: 19-012921
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm

HEARING DECISION

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, 7 CFR 273.15, and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on January 9 and 29, 2020, from Lansing, Michigan. Petitioner, [REDACTED], appeared and represented herself. Respondent, Department of Health and Human Services (Department), had Janika Ashwood, Supervisor, and Tesha Miller, Assistance Payments Specialist, appear as its representatives. Neither party had any additional witnesses.

Two exhibits were admitted into evidence during the hearing. A 29-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A, and a one-page document provided by Petitioner was admitted as Petitioner's Exhibit 1.

ISSUE

Did the Department properly deny Petitioner's request for Food Assistance Program (FAP) benefits effective October 2, 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. On [REDACTED], 2019, Petitioner applied for FAP benefits.
2. On October 21, 2019, the Department mailed an appointment notice to Petitioner. The appointment notice advised Petitioner that she was scheduled for a telephone appointment at 9:00 a.m. on October 28, 2019, and that the Department would call Petitioner at the scheduled time to initiate the appointment.

3. On October 28, 2019, Petitioner did not receive a phone call from the Department. At 9:19 a.m., Petitioner attempted to call her caseworker to attend the appointment, but Petitioner was unable to reach her.
4. On October 28, 2019, the Department mailed a notice of missed appointment to Petitioner. The notice advised Petitioner that she missed her scheduled appointment and that she had to reschedule the appointment before November 1, 2019.
5. On [REDACTED], 2019, Petitioner reapplied for FAP benefits. The Department completed an appointment with Petitioner, and the Department approved Petitioner for FAP benefits, effective November 6, 2019.
6. On December 4, 2019, Petitioner requested a hearing because she disagreed with the effective date of her FAP benefits.

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) 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 administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

When an individual applies for FAP benefits, the Department must interview the individual. BAM 115 (October 1, 2019), p. 17-24. It is the Department's responsibility to schedule the interview, provide notice, and initiate contact for telephone interviews. *Id.* In this case, the Department did not follow the policy because the Department did not initiate contact for Petitioner's telephone interview. Petitioner presented evidence that she did not receive a phone call from the Department near the scheduled time of her telephone interview, and the Department did not present any evidence to rebut Petitioner's evidence. Thus, based on the evidence presented, I must find that the Department failed to initiate Petitioner's telephone interview as required by BAM 115.

Since the Department did not act in accordance with its policies, the Department's denial must be reversed.

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 did not act in accordance with its policies and the applicable law when it denied Petitioner's request for Food Assistance Program (FAP) benefits effective October 2, 2019.

IT IS ORDERED the Department's decision is **REVERSED**. The Department shall begin to implement this decision within 10 days.

JK/ml



Jeffrey Kemm
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

DHHS

Denise McCoggle
27260 Plymouth Rd.
Redford, MI 48239

Wayne (District 15) County DHHS – Via
Electronic Mail

M. Holden – Via Electronic Mail

D. Sweeney – Via Electronic Mail

Petitioner

[REDACTED]
[REDACTED], MI [REDACTED]