



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: January 13, 2021
MOAHR Docket No.: 20-006914
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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 11, 2021, from Detroit, Michigan. Petitioner was present with his daughter, Nicole Smith. The Department of Health and Human Services (Department) was represented by Juanita Munoz, Hearing Facilitator.

ISSUE

Did the Department properly deny Petitioner's Medical Assistance (MA) and Food Assistance Program (FAP) application?

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], 2020, Petitioner submitted an application for FAP and MA benefits.
2. On September 24, 2020, the Department sent Petitioner a Health Care Coverage Supplemental Questionnaire (Exhibit A, pp. 9-12).
3. On October 19, 2020, the Department sent Petitioner an Appointment Notice informing him that he had an interview scheduled on [REDACTED], 2020 at 9:30 AM (Exhibit A, pp. 6-7).
4. On October 21, 2020, the Department sent Petitioner a Notice of Missed Appointment (Exhibit A, p. 8).

5. On October 26, 2020, the Department sent Petitioner a Notice of Case Action informing him that his application was denied.
6. On November 5, 2020, Petitioner submitted a request for hearing disputing the Department's actions.

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.

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

In this case, Petitioner submitted an application for FAP and MA benefits on [REDACTED], 2020. On September 24, 2020, the Department sent Petitioner a Health Care Coverage Supplemental Questionnaire with a due date of October 5, 2020. The Department also sent Petitioner an Appointment Notice on October 19, 2020, for an interview scheduled on [REDACTED], 2020.

Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (April 2017), p. 1. Generally, to request verification of information, the Department sends a verification checklist (VCL) which tells the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. In this case, the Department sent a Health Care Coverage Supplemental Questionnaire to request verification. A Health Care Coverage Supplemental Questionnaire is used to gather additional information when the applicant indicates a disability on the MA application. BEM 105 (April 2017), p. 3. For MA cases, the Department allows the client 10 calendar days to provide the verification that is required. BAM 130, p. 7. If the client cannot provide the verification despite a reasonable effort, the Department will extend the time limit up to two times. BAM 130, p.

8. The Department sends a negative action notice when: the client indicates a refusal to provide a verification OR the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130, p. 7.

During the processing of a FAP application, the Department will conduct a telephone interview before approving benefits. BAM 115 (October 2019), p. 1. For FAP, the interview must be held by the 20th day after the application date to allow the client at least 10 days to provide verifications by the 30th day. BAM 115, p. 24. If a client misses their interview appointment, the department will send a Notice of Missed Interview, advising them that it is the client's responsibility to request another interview date. BAM 115, p. 24. If the client calls to reschedule, the Department will set the interview prior to the 30th day, if possible. BAM 115, p. 24. If the client fails to reschedule or misses the rescheduled interview, the Department will deny the application on the 30th day. BAM 115, p. 24.

The Department testified that Petitioner did not attend the [REDACTED], 2020 interview. As a result, the Department sent Petitioner a Notice of Missed Appointment on October 21, 2020, informing Petitioner he had until October 24, 2020, to reschedule his interview. The Department testified that Petitioner did not contact the Department to schedule an interview. The Department also testified that Petitioner did not return the Health Care Coverage Supplemental Questionnaire. As a result, the Department denied Petitioner's FAP and MA application.

Petitioner's daughter testified that Petitioner did not receive the October 19, 2020 Appointment Notice. Petitioner's daughter did state that Petitioner received the Notice of Missed Interview. Petitioner's daughter testified that a Department worker contacted her father to complete an interview. Petitioner's daughter stated that half of the interview was completed before the worker began experiencing phone issues. Petitioner's daughter stated that she and her father attempted to call the worker back on several occasions to complete the interview but were unsuccessful in reaching the worker. Petitioner's daughter testified that she and her father also went to the Department's office location to resolve the issue. Petitioner's daughter stated that when she went to the Department's office location, they submitted the Health Care Coverage Supplemental Questionnaire.

The Department did not present Petitioner's electronic case file (ECF). The ECF consists of scanned documents, arranged by category and identified by a client name, recipient ID or case number, established for a particular client group. BAM 300 (October 2016), p. 1. The ECF contains all forms, documents and other evidence to the group's current and past eligibility. BAM 300, p. 1. The Department also failed to produce the case comments from Petitioner's casefile. In the absence of such evidence, the Department failed to establish that Petitioner failed to contact the Department for his interview and that he failed to submit the Health Care Coverage Supplemental Questionnaire. Therefore, the Department failed to establish that it acted in accordance with policy when it denied Petitioner's MA and FAP application.

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 denied Petitioner's application.

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. Reinstatement and reprocess Petitioner's [REDACTED], 2020 application;
2. If Petitioner is eligible for FAP benefits, issue supplements he is entitled to receive;
3. If Petitioner is eligible for MA coverage, provide coverage he is entitled to receive; and
4. Notify Petitioner of its decision in writing.

EM/jem



Ellen McLemore

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:

Tracy Felder
BSC4-HearingDecsions
M. Holden
D. Sweeney
D. Smith
EQADhearings
MOAHR

Petitioner – Via First-Class Mail:

██████████
██████████
██████████