



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]

Date Mailed: February 12, 2021
MOAHR Docket No.: 20-007723
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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 February 10, 2021. The Petitioner appeared for the hearing and was represented by his sister and Authorized Hearings Representative [REDACTED]. The Department of Health and Human Services (Department) did not appear for the hearing.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefits and then deny Petitioner's 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. Effective October 2020, the Department closed Petitioner's FAP benefits for failure to complete an interview.
2. Petitioner reapplied for FAP benefits.
3. An interview was scheduled for October 26, 2020, but the Department never contacted Petitioner.
4. On October 26, 2020, Petitioner attempted to call his caseworker, but no one answered, and the voicemail was full.
5. On October 30, 2020, Petitioner again attempted to call his caseworker, but no one answered, and the voicemail was full.

6. On November 4, 2020, Petitioner contacted his caseworker's supervisor and left a voicemail regarding the interview.
7. On November 8, 2020, Petitioner received a letter indicating he had missed his interview, that he was responsible for rescheduling it, and that if it was not completed his Application would be denied.
8. On November 9, 2020, Petitioner called his case worker again, but again no one answered, and the voicemail was full.
9. At some point, the Application was denied.
10. On December 7, 2020, Petitioner's Authorized Hearings Representative submitted a request for hearing disputing the closure of FAP benefits and denial of his Application.

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, the Department closed Petitioner's FAP case and then denied Petitioner's Application for FAP benefits for failure to complete the interview process. In ongoing FAP cases, an interview is required before denying a redetermination. BAM 210 (October 2020), p. 5. Likewise, interviews are required at Application. BAM 115 (July 2020), p. 20. If a client misses an interview for Redetermination or Application, the Department is required to send a DHS-254 Notice of Missed Interview advising the client that it is their responsibility to reschedule the interview. BAM 115, p. 24; BAM 210, p. 6. If the interview is not completed for Application or Redetermination, then the Application is denied, or the benefits are closed. *Id.* These policies assume that the Department is responsive to the client's calls and voicemails. Other policy dictates that it is the Department's responsibility to assist clients when assistance is requested. Bam 105 (July 2020), p. 15. When Petitioner contacted his caseworker and the supervisor, he was calling to ask for help in completing the interview, but because the caseworker's voicemail was full, he could not leave a message and he never got a response from the supervisor. The Department has not met its burden of proof in establishing that it has

acted in accordance with law and policy in closing Petitioner's FAP benefits or denying his FAP Application.

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. Redetermine Petitioner's FAP eligibility effective as of the original closure date in October 2020;
2. If otherwise eligible, issue supplements to Petitioner for benefits not previously received effective as of the original closure date;
3. If not eligible based upon the original closure date, reprocess Petitioner's Application filed after the initial closure in October 2020;
4. If otherwise eligible, issue supplements to Petitioner for benefits not previously received effective as of the Application date; and,
5. Notify Petitioner in writing of its decision.

AMTM/cc



Amanda M. T. Marler
Administrative Law Judge
for Elizabeth Hertel, 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-Greydale-Hearings
BSC4-HearingDecisions
D. Sweeney
M. Holden
MOAHR

Petitioner- Via USPS:

