



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: December 12, 2019
MOAHR Docket No.: 19-011363
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jacquelyn A. McClinton

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 3-way telephone hearing was held on December 9, 2019, from Detroit, Michigan. Petitioner represented herself. A representative on behalf of the Department of Health and Human Services (Department) failed to appear for the hearing.

On October 9, 2019, Petitioner requested a hearing to dispute the Department's actions regarding the Food Assistance Program (FAP) and the Medical Assistance (MA) program. On October 28, 2019, Petitioner submitted a request for withdrawal from hearing. However, because the withdrawal only addressed FAP benefits, the request for withdrawal was denied on November 14, 2019. At the hearing, Petitioner stated that she did not wish to withdraw her hearing request relating to FAP benefits.

ISSUE

Did the Department properly deny Petitioner's September 3, 2019 application for Food Assistance Program (FAP) benefits?

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 August 1, 2019, the Department sent Petitioner a Wage Match Notice relating to two of Petitioner's employers with a return due date of September 3, 2019.
2. On September 3, 2019, Petitioner applied for FAP benefits.

3. An Appointment Notice was sent to Petitioner on September 25, 2019, with an interview date of October 4, 2019.
4. On October 3, 2019, prior to the date of the interview, the Department sent Petitioner a Notice of Case Action which notified Petitioner that her application for FAP benefits had been denied.
5. On [REDACTED], Petitioner filed a Request for Hearing disputing the Department's actions relating to FAP and Medical Assistance (MA) 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) [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.

MA

In Petitioner's October 9, 2019 Request for Hearing, she disputed the Department's actions relating to both FAP and MA benefits. In the hearing request, Petitioner stated that she was "also asking why it states that I haven't sent in the forms to keep my medical active." However, at the hearing, Petitioner was unable to recall when and even if she had previously applied for MA benefits. Petitioner stated that she received some documents in the mail asking her to select a health care provider and that she believed the documents related to MA benefits. Petitioner testified that her mother assisted her in obtaining MA benefits. Petitioner's mother did not appear at the hearing. The Department failed to appear at the hearing. Petitioner did not provide any additional information on what document she received indicating that she did not submit

the required forms. As such, the undersigned is unable to determine whether Petitioner has an active MA case.

In accordance with Department policy, the client or authorized hearing representative (AHR) has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received in the local office within the 90 days. BAM 600 (April 2018), p. 6. Because Petitioner was unable to provide any evidence that she actually applied for benefits and because there was no written notification from the Department denying/closing MA benefits, the undersigned finds that there is no issue to resolve relating to MA benefits. As such, Petitioner's Request for Hearing relating to MA benefits is hereby DISMISSED. If Petitioner is able to locate a Health Care Coverage Determination Notice notifying her that she is no longer eligible for MA benefits, she can request a reconsideration of this decision.

FAP

In this case, Petitioner testified that she applied for FAP benefits. Petitioner was scheduled for a FAP interview on October 4, 2019. The purpose of the interview is to explain program requirements to the applicant and to gather information for determining the group's eligibility. The interview is an official and confidential discussion. Its scope must be limited to both of the following:

- Collecting information and examining the circumstances directly related to determining the group's eligibility and benefits.
- Offering information on programs and services available through MDHHS or other agencies. BAM 115 (April 2019), p. 18.

If clients miss an interview appointment, the Department is required to send a Notice of Missed Interview, advising them that it is **the clients'** responsibility to request another interview date. It sends a notice only after the **first** missed interview. If the client calls to reschedule, the Department is required to set the interview prior to the 30th day, if possible. However, if the client fails to reschedule or misses the rescheduled interview, the Department should deny the application on the 30th day. BAM 115, p. 24.

Petitioner further testified that the Department denied her application for FAP benefits the day before her telephone interview was scheduled to take place. Petitioner's testimony is supported by the Notice of Case Action dated October 3, 2019, which notified Petitioner of the denial of her application for FAP benefits. The Department failed to appear at the hearing and, therefore, failed to offer a reasonable explanation as to why the denial was sent prior to the telephone interview.

At the hearing, Petitioner testified that she reapplied for FAP benefits and received a Notice of Case Action indicating that her application had been denied due to excess income. Petitioner appeared to disagree with this determination. If Petitioner disputes the Department's findings regarding her second application, she can file a request for

hearing with the Department within 90 days from the date listed on the Notice of Case Action pertaining to that application.

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 denied Petitioner's application for FAP benefits effective September 3, 2019.

DECISION AND ORDER


Petitioner's Request for Hearing for MA benefits is hereby **DISMISSED**.

The Department's decision relating to the denial of Petitioner's September 3, 2019 application 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. Re-register and reprocess Petitioner's September 3, 2019 application for FAP benefits;
2. If Petitioner was eligible for supplements, issue FAP supplements Petitioner was eligible for but did not receive relating to her September 3, 2019 application; and
3. Notify Petitioner in writing of its decision.

JAM/jaf



Jacquelyn A. McClinton
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 (via electronic mail)

[REDACTED]

Petitioner (via first class mail)

[REDACTED]