



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

ORLENE HAWKS
DIRECTOR

[REDACTED]
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[REDACTED]
[REDACTED]

Date Mailed: March 26, 2019
MAHS Docket No.: 19-001651
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 March 21, 2019, from Detroit, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Rechela Hall, Eligibility Specialist. During the hearing, a 16-page packet of documents was offered and admitted as Exhibit A, pp. 1-16.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefits case due to Petitioner's alleged failure to participate in the redetermination process?

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 FAP recipient. Her benefit period ran through January 31, 2019.
2. On December 4, 2018, 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 January 2, 2019. The document informed Petitioner that Petitioner would receive a phone call from her specialist from DHHS on January 2, 2019, at 11:45 am for the purposes of conducting a Redetermination interview. The document warned Petitioner that failure to keep the January 2, 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. 3-13.

3. On [REDACTED] 2018, Petitioner returned to the Department the completed Redetermination.
4. On January 2, 2019, Petitioner's specialist did not call Petitioner at any point in time.
5. On January 2, 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 unless she took further action to ensure that the interview was rescheduled on or before January 31, 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. Within one week of being issued the January 2, 2019, Notice of Missed Interview, Petitioner called her specialist multiple times in order to reschedule the interview. Petitioner's specialist did not answer the phone, so Petitioner left messages. Exhibit A, p. 13.
7. Effective February 1, 2019, Petitioner's FAP case was closed for failing to complete the redetermination process.
8. On [REDACTED] 2019, Petitioner submitted to the Department a request for hearing objecting to the Department's closure of her FAP 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 January 31, 2019. Accordingly, the Department sent to Petitioner a Redetermination form on December 4, 2018, with a due date of January 2, 2019. The Redetermination informed Petitioner that she would be contacted via

telephone on January 2, 2019, at 11:45 a.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], 2018.

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 January 2, 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 January 2019. Petitioner diligently attempted to follow those instructions by calling the number on the form and leaving messages. During the month of January 2019, the Department called Petitioner’s correct phone number once but was unable to connect with her. When Petitioner called back, her calls went unanswered, and the Department did not attempt to reach her at her actual phone number again until the case had already closed. On February 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 (January 2018), 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 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.

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 fact that the Department specialist missed the scheduled interview and then 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 failed to act in accordance with Department policy when it closed Petitioner's FAP case.

DECISION AND ORDER

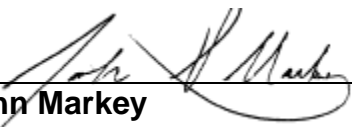
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Petitioner's FAP case effective February 1, 2019.

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, effective February 1, 2019;
2. If there are any outstanding issues regarding the Redetermination process, including the need to complete a Redetermination interview, clearly inform Petitioner of the outstanding issues and provide instructions on how to resolve them pursuant to Department policy;
3. If Petitioner is eligible for additional benefits, issue Petitioner any supplemental benefits she may thereafter be due; and
4. Issue written notice of any case action(s) in accordance with Department policy.

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 Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS 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. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MAHS Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

Via Email:

MDHHS-Oakland-3-Hearings
M. Holden
D. Sweeney
BSC4- Hearing Decisions
MAHS

Petitioner – Via First-Class Mail:

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