



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

[REDACTED]  
[REDACTED], MI [REDACTED]

Date Mailed: August 6, 2019  
MOAHR Docket No.: 19-007078  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Kevin Scully

### **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; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on August 1, 2019, from Lansing, Michigan. Petitioner represented herself. The Department of Health and Human Services was represented by Valarie Foley.

### **ISSUE**

Did the Department of Health and Human Services (Department) properly deny Petitioner's 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 [REDACTED], 2019, the Department received Petitioner's application for Food Assistance Program (FAP) benefits. Exhibit A, pp 3-8.
2. On May 14, 2019, the Department sent Petitioner an Appointment Notice (DHS-170) scheduling an eligibility interview for May 20, 2019. Exhibit A, p 10.
3. On [REDACTED] 2019, the Department notified Petitioner that her application for Food Assistance Program (FAP) benefits had been denied. Exhibit A, pp 12-13.
4. On July 3, 2019, the Department received Petitioner's request for a hearing protesting the denial of her Food Assistance Program (FAP) application. Exhibit A, p 9.

## **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 Department will automatically generate an interview notice where required by policy. The Department will deny a FAP application if the client misses the eligibility interview and does not reschedule it within 30 days of the application date. Department of Health and Human Services Bridges Administrative Manual (BAM) 115 (April 1, 2019), pp 1-37.

Petitioner applied for FAP benefits on [REDACTED], 2019, and the Department sent her notice of an eligibility interview scheduled for May 20, 2019. On June 10, 2019, the application was denied for failing to complete the required interview.

Petitioner testified that she completed the required interview on May 17, 2019, and the Department conceded that phone records show that she made a 26-minute telephone call with the Department's office on May 17, 2019.

This Administrative Law Judge finds that the evidence supports a finding that Petitioner made a reasonable attempt to comply with the eligibility requirements for receiving FAP benefits and that the Department failed to establish that it properly processed her May 10, 2019, 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 May 10, 2019, application for Food Assistance Program (FAP) benefits.

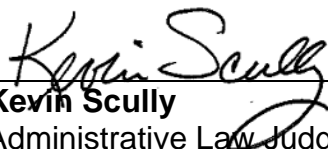
**DECISION AND ORDER**

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:

Initiate the reprocessing of the [REDACTED], 2019, application for Food Assistance Program (FAP) benefits in accordance with policy.

KS/hb

  
\_\_\_\_\_  
**Kevin Scully**  
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**

Susan Noel  
26355 Michigan Ave.  
Inkster, MI 48141

Wayne County (District 19), DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

**Petitioner**

[REDACTED]  
[REDACTED], MI [REDACTED]