



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: November 8, 2019
MOAHR Docket No.: 19-009889
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 November 7, 2019 from Detroit, Michigan. Petitioner appeared. Also appearing on behalf of Petitioner was Petitioner's son, Daniel Emadamerho. The Department of Health and Human Services (Department) was represented by Valarie Foley, Hearings Facilitator. During the hearing, a 20-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-20.

ISSUE

Did the Department properly deny Petitioner's July 30, 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 [REDACTED] 2019, Petitioner submitted an online application for assistance, including FAP benefits. On the application, Petitioner provided contact information, including a telephone number and mailing address. Exhibit A, pp. 5-12.
2. On July 30, 2019, the Department placed a call to Petitioner at the number provided on the application in order to conduct the telephone interview to determine FAP eligibility. Petitioner did not answer or call back. Exhibit A, p. 15.

3. On July 30, 2019, the Department issued to Petitioner an Appointment Notice informing Petitioner of an interview scheduled for August 6, 2019. The notice included instructions for Petitioner to reschedule prior to that date if she was not able to make it and that she had all responsibility for any necessary rescheduling. Exhibit A, pp. 13-14.
4. Petitioner did not show up for the August 6, 2019 interview as she was out of town. Petitioner did not, however, seek to reschedule the interview.
5. On August 29, 2019, the Department issued to Petitioner a Notice of Case Action informing Petitioner that her application was denied due to Petitioner's failure to fulfill the interview requirement. Exhibit A, pp. 16-19.
6. On [REDACTED], 2019, Petitioner submitted to the Department a request for hearing objecting to the denial of her July 30, 2019 FAP 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, Petitioner requested a hearing to dispute the denial of her [REDACTED] 2019 application for FAP benefits. The Department denied Petitioner's application via an August 29, 2019 Notice of Case Action. The reason given for the denial was that Petitioner did not participate in the required interview despite the Department calling her at least twice and scheduling an in-person interview for August 6, 2019.

When an individual files an application for FAP benefits, an interview is required to be held before approving the individual for FAP benefits. BAM 115 (April 2019), pp. 17-24. Policy states that the interviews should generally be scheduled as telephone hearings unless either the applicant requests an in-person interview or the Department specialist determines that an in-person interview is appropriate. BAM 115, pp. 20-21. The purpose of the interview is to explain program requirements to the applicant and to gather information for determining the group's eligibility. BAM 115, p. 17. If an applicant misses the interview appointment and fails to reschedule by the 30th day after

the application was filed, the Department denies the application on the 30th day. BAM 115, p. 24.

The day Petitioner filed the application for FAP benefits, the Department attempted to reach her for the interview by calling the telephone number provided on that application. Petitioner did not answer. After failing to reach her by telephone, the Department issued the July 30, 2019 Appointment Notice informing Petitioner of an interview to take place on August 6, 2019. Petitioner did not appear at that interview nor did she attempt to reschedule. On the thirtieth day after the application was filed, the Department issued to Petitioner the Notice of Case Action denying her application due to Petitioner's failure to attend or reschedule the interview.

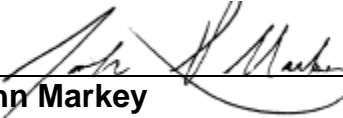
In taking these actions, the Department followed law and Department policy. Petitioner's benefits could not be approved without Petitioner conducting the interview. The Department appropriately notified Petitioner of the interview and the consequences for missing the interview. The Department further notified Petitioner that it was her obligation to reschedule if she could not make. Petitioner did not take any action to either attend or reschedule, and her application was properly denied on the thirtieth day after it was filed.

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 acted in accordance with Department policy when it denied Petitioner's [REDACTED] 2019 FAP application.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

JM/tm



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 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

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

cc: FAP: M. Holden; D. Sweeney
AP Specialist-Wayne County