



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: January 7, 2020  
MOAHR Docket No.: 19-012124  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Ellen McLemore**

### **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 January 6, 2020, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Barbara Schram, Family Independence Manager.

### **ISSUE**

Did the Department properly deny Petitioner's Food Assistance Program (FAP) benefit 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. On [REDACTED], 2019, Petitioner submitted an application for FAP benefits (Exhibit A, pp. 1-15).
2. On September 17, 2019, the Department sent Petitioner an Appointment Notice informing her that she had a scheduled telephone interview on September 24, 2019 (Exhibit A, pp. 16-17).
3. On September 24, 2019, the Department sent Petitioner a Notice of Missed Appointment, informing her that she had missed her telephone interview and that she would need to contact the Department before October 16, 2019, to reschedule the interview (Exhibit A, p. 18).

4. On October 16, 2019, the Department sent Petitioner an Application Notice informing her that her FAP application had been denied (Exhibit A, p. 21).
5. On October 25, 2019, Petitioner submitted a request for hearing disputing the Department's actions related to her FAP and Medical Assistance (MA) benefit cases.

### **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).

#### **FAP**

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 submitted an application for FAP benefits on [REDACTED], 2019. On September 17, 2019, the Department sent Petitioner an Appointment Notice, informing her that she had a telephone interview scheduled on [REDACTED], 2019, between the hours of 11:30 AM and 1:30 PM.

When completing an application for FAP benefits, the Department will conduct an interview before approving benefits. BAM 115 (January 2018), p. 21. If the group is ineligible or refuses to cooperate in the application process, the Department will certify a denial. BAM 115, p. 25.

The Department testified that Petitioner was contacted for her interview on [REDACTED], 2019. The Department stated that Petitioner did not answer the phone call and the worker was unable to leave a message, as Petitioner's voicemail had not been set up. However, the Department acknowledged that the call made to Petitioner for the interview was outside the hours of 11:30 AM and 1:30 PM. The Department sent Petitioner a Notice of Missed Interview on [REDACTED], 2019, informing her that she needed to contact the Department to reschedule her interview by October 16, 2019. The Department presented documentation showing a call was not received from Petitioner's cellphone number by October 16, 2019 (Exhibit A, pp. 19-20). As a result, Petitioner's application for FAP benefits was denied.

Petitioner testified that she did not receive a call during the scheduled interview time on [REDACTED], 2019. Petitioner stated the Department contacted her for the interview

after she had already left for work. Petitioner stated she received the Notice of Missed Interview and attempted to contact the Department four separate times on October 15, 2019. Petitioner was unable to contact a worker to schedule or complete her interview. At the hearing, the Department acknowledged that Petitioner's call log reflected four phone calls made to the Department on October 15, 2019.

The Department will deny a client's application if they refuse to cooperate with the application process. BAM 115, p. 25. Petitioner's testimony that she attempted to comply with the Department's request to participate in an interview was credible. The Department did not contact Petitioner within the scheduled interview timeframe and Petitioner made a reasonable attempt to reschedule the interview. Therefore, the Department did not act in accordance with policy when it denied Petitioner's FAP application.

### **MA**

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.

The hearing was requested, in part, to dispute the Department's action taken with respect to Petitioner's MA program benefits. Shortly after commencement of the hearing, Petitioner testified that she did not wish to proceed with the hearing related to her MA benefit case. The Request for Hearing related to the MA program was withdrawn. The Department agreed to the dismissal of the hearing request.

Pursuant to the withdrawal of the hearing request filed in this matter, the Request for Hearing related to the MA program is, hereby, **DISMISSED**.

### **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 did not act in accordance with Department policy when it denied Petitioner's FAP application.

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

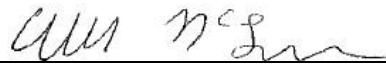
Petitioner's request for hearing related to her MA benefit case is **DISMISSED**.

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 and reprocess Petitioner's [REDACTED], 2019 FAP application;
2. If Petitioner is eligible for FAP benefits, issue supplements she is entitled to receive; and
3. Notify Petitioner of its decision in writing.

EM/cg



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**Ellen McLemore**  
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

**Via Email:**

MDHHS-Iosco-Hearings  
M. Holden  
D. Sweeney  
D. Smith  
EQAD  
BSC1- Hearing Decisions  
MOAHR

**Petitioner – Via First-Class Mail:**

