



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], MI [REDACTED]

Date Mailed: January 27, 2021
MOAHR Docket No.: 20-007651
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 12, 2021. [REDACTED], the Petitioner, appeared on her own behalf. The Department of Health and Human Services (Department) was represented by Crystal Kendrick, Eligibility Specialist (ES), and Sara Terreros, Assistance Payments Supervisor (AP Supervisor).

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-27.

ISSUE

Did the Department properly deny Petitioner's [REDACTED], 2020, 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], 2020, Petitioner applied for FAP and medical assistance. Petitioner listed an Authorized Representative (AR) for FAP on the application. (Exhibit A, pp. 8-18)
2. On October 23, 2020, an ES attempted to complete a telephone interview with Petitioner. The call went to voicemail, which was full. (Exhibit A, p. 19)

3. On October 30, 2020, an ES attempted to call Petitioner because an appointment was accidentally scheduled when the ES was off. The call went to voicemail, which was full. (Exhibit A, p. 19)
4. On October 30, 2020, an Appointment Notice was issued to Petitioner stating a telephone interview was scheduled for November 9, 2020, at 10:00 am. (Exhibit A, pp. 20-21)
5. On November 9, 2020, a Notice of Missed appointment was issued to Petitioner stating it was Petitioner's responsibility to reschedule the interview before November 19, 2020, or the application would be denied. (Exhibit A, p. 22)
6. On November 17, 2020, an ES attempted to complete a telephone interview with Petitioner. The call went to voicemail, which was full. (Exhibit A, p. 19)
7. On November 19, 2020, a Notice of Case Action was issued to Petitioner stating FAP was denied because Petitioner failed to have the mandatory interview for FAP. (Exhibit A, pp. 23-27)
8. On November 30, 2020, Petitioner requested a hearing contesting the Department's determination. (Exhibit A, pp. 4-7)

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.

For FAP, an interview is required. 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, July 1, 2020, p. 17.

For FAP, the Department is not to deny the application if the client has not participated in a scheduled initial interview until the 30th day after the application date, even if he/she has returned all verifications. BAM 115, p. 19.

In this case, Petitioner applied for FAP and MA on [REDACTED] 2020. Petitioner listed an AR for FAP on the application. (Exhibit A, pp. 8-18)

On October 23, 2020, an ES attempted to complete a telephone interview with Petitioner. The call went to voicemail, which was full. (Exhibit A, p. 19) On October 30, 2020, an ES attempted to call Petitioner because an appointment was accidentally scheduled when the ES was off. The call went to voicemail, which was full. (Exhibit A, p. 19) On October 30, 2020, an Appointment Notice was issued to Petitioner stating a telephone interview was scheduled for November 9, 2020, at 10:00 am. (Exhibit A, pp. 20-21) There is no case note for an attempt to reach Petitioner for an interview on November 9, 2020. (Exhibit A, p. 19) However, on November 9, 2020, a Notice of Missed appointment was issued to Petitioner stating it was Petitioner's responsibility to reschedule the interview before November 19, 2020, or the application would be denied. (Exhibit A, p. 22) On November 17, 2020, an ES attempted to complete a telephone interview with Petitioner. The call went to voicemail, which was full. (Exhibit A, p. 19) On November 19, 2020, a Notice of Case Action was issued to Petitioner stating FAP was denied because Petitioner failed to have the mandatory interview for FAP. (Exhibit A, pp. 23-27)

Petitioner indicated that if a call came into her phone as unknown or something like that it probably would have been rejected as a junk call. (Petitioner Testimony) The ES testified that with the current set up, she has been told that when she calls clients, it displays as a call from Cedar Springs phone number, not a Department number. If she is able to leave a message, the ES can provide her actual number for a client to call back. (ES Testimony)

Petitioner also noted that the Department's evidence did not show her attempts to call and email the Department. Petitioner called the ES and left messages. Petitioner stated she emailed the ES on or about November 19, 2020 and November 25, 2020. (Petitioner Testimony)

When asked if she received emails from Petitioner, the ES explained that she was out of the office the month of November 2020. A co-worker was assisting and attempted to call Petitioner on November 17, 2020. (ES Testimony) The AP Supervisor explained that she had asked Petitioner to forward the emails to her. Petitioner did so on January 8, 2021. The forwarded emails included an email Petitioner sent the ES on November 16, 2020, asking the ES to call her because she had two appointments, she had not had a response from the Department, and she had been unable to reach the ES. (AP Supervisor Testimony)

Overall, the evidence shows that Petitioner was attempting to reach the ES to participate in the required FAP interview. Further, there was no evidence that the Department attempted to reach Petitioner's AR for the required interview for the FAP application. The AP Supervisor testified that it is normal procedure for the Department to try to contact the AR as well. The AP Supervisor acknowledged that Petitioner's application should be re-processed. (AP Supervisor Testimony)

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 [REDACTED] 2020, application for FAP benefits.

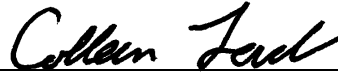
DECISION AND ORDER

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:

1. If they have not already done so, the Department shall re-process Petitioner's [REDACTED], 2020 application for FAP in accordance with Department policy.

CL/ml



Colleen Lack
Administrative Law Judge
for Elizabeth Hertel, 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

Kimberly Kornoelje
Kent County DHHS – via electronic mail

BSC3 – via electronic mail

M. Holden – via electronic mail

D. Sweeney – via electronic mail

Petitioner

████████████████████ – via first class
mail

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