



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: February 22, 2021
MOAHR Docket No.: 20-008230
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 February 17, 2021, from Detroit, Michigan. Petitioner was present with her sister, [REDACTED]. The Department of Health and Human Services (Department) was represented by Motia Thabet, Eligibility Specialist.

ISSUE

Did the Department properly deny Petitioner's Food Assistance Program (FAP) 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], 2020, Petitioner submitted an application for FAP benefits (Exhibit A, pp. 8-13).
2. On November 16, 2020, the Department sent Petitioner an Appointment Notice informing her that she had an interview scheduled on [REDACTED], 2020 at 11:00 AM (Exhibit A, pp. 6-7).
3. On November 16, 2020, the Department sent Petitioner a Verification Checklist (VCL) requesting verification of Petitioner's son's income from employment (Exhibit A, pp. 15-16).
4. On December 4, 2020, Petitioner submitted verification of her son's income from employment (Exhibit A, p. 14).

5. On December 7, 2020, the Department sent Petitioner a Notice of Case Action informing Petitioner that her application was denied (Exhibit A, pp. 17-20).
6. On December 15, 2020, Petitioner submitted a request for hearing disputing the Department's actions.

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 submitted an application for FAP benefits on [REDACTED], 2020. On November 16, 2020, the Department sent Petitioner a VCL requesting verification of her son's income from employment. Proofs were due by November 20, 2020. Additionally, the Department sent Petitioner an Appointment Notice on November 16, 2020, informing her that she had a scheduled interview on [REDACTED], 2020, at 11:00 AM.

For FAP cases, the Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verification that is required. BAM 130, p. 7. Verifications are considered to be timely if received by the date they are due. BAM 130, p. 7. For electronically transmitted verifications (fax, email or Mi Bridges document upload), the date of the transmission is the receipt date. BAM 130, p. 7. Verifications that are submitted after the close of regular business hours through the drop box or by delivery of a MDHHS representative are considered to be received the next business day. BAM 130, p. 7. The Department sends a negative action notice when: the client indicates a refusal to provide a verification OR the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130, p. 7.

The subsequent processing policy states that the Department will reregister an application for FAP benefits if a client completes the application process after denial, but within 60 days after the application date. BAM 115 (April 2017), p. 23. If the client completes the application process within 30 days of the date of application, the Department will re-register the application using the original application date. BAM 115, p. 23. If the client completes the application process between 31 and 60 days beyond

the application date, the department will reregister the application using the date the client completed the process. BAM 115, p. 24.

During the processing of a FAP application, the Department will conduct a telephone interview before approving benefits. BAM 115 (October 2019), p. 1. For FAP, the interview must be held by the 20th day after the application date to allow the client at least 10 days to provide verifications by the 30th day. BAM 115, p. 24. If a client misses their interview appointment, the department will send a Notice of Missed Interview, advising them that it is the client's responsibility to request another interview date. BAM 115, p. 24. If the client calls to reschedule, the Department will set the interview prior to the 30th day, if possible. BAM 115, p. 24. If the client fails to reschedule or misses the rescheduled interview, the Department will deny the application on the 30th day. BAM 115, p. 24.

The Department testified that Petitioner did not submit verification of her son's income from employment by the VCL due date. However, the Department did state that Petitioner submitted the required verifications on December 4, 2020. Per the subsequent processing policy, the untimely verifications should not have prevented the processing of Petitioner's FAP application, as they were submitted within 30 days of the date of the application.

The Department also testified that Petitioner was contacted on [REDACTED], 2020. The Department worker could not recall exactly what time he attempted to contact Petitioner, nor could the worker recall if he did or did not leave a message. The Department stated that a Notice of Missed Appointment was sent on November 23, 2020, informing Petitioner that she needed to call to reschedule her interview. The Department testified that Petitioner did not attempt to reschedule her interview.

Petitioner testified that she was prepared to conduct her interview on [REDACTED], 2020. Petitioner stated that she did not receive a phone call from the Department at any point on [REDACTED], 2020. Petitioner stated that she contacted her worker on [REDACTED], 2020, as well subsequent to the scheduled interview date, but did not receive a return call.

The Department testified that Petitioner was sent a Notice of Missed Appointment but did not provide the document for the Undersigned to independently verify that it was sent to Petitioner. Additionally, the Department failed to provide the case comments from Petitioner's electronic case file to establish that Petitioner was contacted on [REDACTED], 2020, and that she failed to contact the Department after that date. In the absence of such evidence, the Department failed to establish that it properly followed policy when it denied Petitioner's FAP application.

DECISION AND ORDER

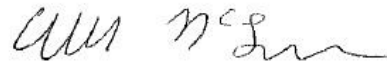
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Petitioner's FAP application.

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. Reinstatement and reprocess Petitioner's [REDACTED], 2020 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/jem



Ellen McLemore
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

Via Email:

MDHHS-Wayne-17-Hearings
BSC4-HearingDecsions
M. Holden
D. Sweeney
MOAHR

Petitioner - Via First-Class Mail:

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