



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: March 29, 2021
MOAHR Docket No.: 21-000678
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 March 17, 2021. [REDACTED] the Petitioner, appeared on her own behalf. The Department of Health and Human Services (Department) was represented by Amber Gibson, Hearing Facilitator. Katherine Place, Eligibility Specialist, appeared as a witness for the Department.

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-17.

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. (Exhibit A, pp. 5-10)
2. On December 21, 2020, an Appointment Notice was issued to Petitioner stating an appointment scheduled for January 8, 2021 at 9:00 am. (Exhibit A, pp. 11-12)
3. On January 8, 2021, a Notice of Missed Appointment was issued to Petitioner. In part, it was explained that an interview is required to apply for FAP and it was now Petitioner's responsibility to reschedule the interview before January 18, 2021 or

the application would be denied. Petitioner was to contact the ES to reschedule the interview. (Exhibit A, p. 13)

4. On January 14, 2021, the Department called Petitioner and left a voicemail. (Hearing Facilitator Testimony)
5. On January 19, 2021, a Notice of Case Action was issued to Petitioner stating FAP was denied based on a failure to complete the interview process. (Exhibit A, pp. 14-17)
6. On January 28, 2021, Petitioner requested a hearing contesting the denial of the FAP application. (Exhibit A, pp. 3-4)

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.

BAM 115 requires that an interview be completed before eligibility is determined for FAP. If the clients miss an interview appointment, the Department is to send a DHS-254, Notice of Missed Interview, advising the client that it is their responsibility to request another interview date. The Department sends a notice only after the first missed interview. If the client calls to reschedule, the Department is to set the interview prior to the 30th day, if possible. If the client fails to reschedule or misses the rescheduled interview, the Department is to deny the application on the 30th day after the application date. BAM 115, January 1, 2021, pp. 17-19 and 24.

In this case, Petitioner applied for FAP on [REDACTED] 2020. (Exhibit A, pp. 5-10) On December 21, 2020, an Appointment Notice was issued to Petitioner stating an appointment scheduled for January 8, 2021. (Exhibit A, pp. 11-12) On January 8, 2021, a Notice of Missed Appointment was issued to Petitioner. In part, it was explained that an interview is required to apply for FAP and it was now Petitioner's responsibility to reschedule the interview before January 18, 2021 or the application would be denied. Petitioner was to contact the ES to reschedule the interview. (Exhibit A, p. 13)

On January 14, 2021, the Department called Petitioner and left a voicemail. (Hearing Facilitator Testimony)

On January 19, 2021, a Notice of Case Action was issued to Petitioner stating FAP was denied based on a failure to complete the interview process. (Exhibit A, pp. 14-17)

Petitioner asserted that for several appointment dates the Department never called her phone. Petitioner referenced some dates prior to and after the contested action in this case. Petitioner explained that whenever she tries to call the Department, she is never able to speak with anyone and no one ever calls her back. However, Petitioner's testimony and hearing request indicated she believed there was an appointment was scheduled for January 10, 2021, and the Department failed to call her on that day. (Exhibit A, p. 4; Petitioner Testimony) However, the December 21, 2020, Appointment Notice that was issued to Petitioner stated the appointment was scheduled for January 8, 2021. (Exhibit A, pp. 11-12) Petitioner acknowledged that she did get a voicemail from the Department on January 14, 2021. (Petitioner Testimony)

Overall, the denial of the [REDACTED] 2020, FAP application was in accordance with the above cited BAM 115 policy. The Department issued the Notice of Missed Interview after the missed appointment on January 8, 2021, which advised Petitioner that an interview is required to apply for FAP and it was now Petitioner's responsibility to reschedule the interview before January 18, 2021 or the application would be denied. The required interview was not completed or rescheduled, therefore, on January 19, 2021, the FAP application was denied.

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] 2020, FAP application.

DECISION AND ORDER

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

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

Amber Gibson
Ingham County DHHS – via electronic
mail

BSC2 – via electronic mail

M. Holden – via electronic mail

D. Sweeney – via electronic mail

Petitioner

██████████ – via first class mail

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