



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

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Date Mailed: March 29, 2021
MOAHR Docket No.: 21-000956
Agency No.: ██████████
Petitioner: ██████████

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 March 25, 2021, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Princess Ogundice, Eligibility Specialist.

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 ██████████ 2020, Petitioner submitted an application for FAP benefits.
2. On December 7, 2020, the Department sent Petitioner an Appointment Notice informing her that she had a scheduled telephone interview on December 15, 2020, at 10:30 AM (Exhibit A, p. 6).
3. On December 15, 2020, the Department sent Petitioner a Notice of Missed Appointment (Exhibit A, p. 8).
4. On January 4, 2021, the Department sent Petitioner a Notice of Case Action informing her that her FAP application was denied (Exhibit A, pp. 9-10).
5. On February 11, 2021, 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 December 7, 2020, the Department sent Petitioner an Appointment Notice informing her that she had a scheduled telephone interview on December 15, 2020, at 10:30 AM.

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 presented the case comments from Petitioner's electronic case file (Exhibit A, p. 7). A comment entered on December 15, 2020 states, "unable to reach client for interview, left detailed VM to [REDACTED], called delayed due to internal technical issues." As a result, the Department sent Petitioner a Notice of Missed Appointment on December 15, 2020, notifying her that she must call and reschedule her interview by January 1, 2021. A case comment was also entered on December 28, 2020, stating, "returned client's call, unable to reach client to [REDACTED] @ 246, left VM." The Department was unable to complete the interview with Petitioner prior to January 1, 2021. As a result, the Department sent Petitioner a Notice of Case Action on January 4, 2021, denying her FAP application.

Petitioner testified that she received the December 7, 2020 Appointment Notice and that she was prepared to complete her interview on December 15, 2020, at 10:30 AM. Petitioner stated that the Department did not call until an hour after the scheduled interview. Petitioner testified that she missed the call but immediately called her worker back. Petitioner stated that she attempted to call her worker several times and sent

electronic messages indicating her availability to complete the interview. Petitioner also stated that she missed the Department's call placed on December 28, 2020. Petitioner stated that she immediately called her worker back and sent electronic messages but was unable to reach her worker to complete the interview.

Petitioner gave credible testimony that she was prepared to conduct the interview at the scheduled date and time. Petitioner also provided credible testimony that she attempted to reschedule the interview. Therefore, the Department failed to establish that it properly followed policy when it denied Petitioner's FAP application.

DECISION AND ORDER

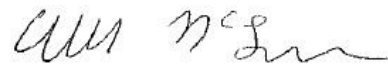
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it denied Petitioner's FAP application.

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. Reinstate and reprocess Petitioner's [REDACTED] 2020 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/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-18-Hearings
BSC4-HearingDecisions
M. Holden
D. Sweeney
MOAHR

Petitioner – Via First-Class Mail:

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