



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: April 28, 2021
MOAHR Docket No.: 21-001075
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 hearing was held via telephone conference line on April 21, 2021. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Heather Hembree, supervisor.

ISSUE

The issue is whether MDHHS properly denied Petitioner's Food Assistance Program (FAP) eligibility.

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] 2021, Petitioner applied for FAP benefits.
2. On January 11, 2021, MDHHS mailed Petitioner an Appointment Notice scheduling Petitioner for a FAP interview at an unspecified date and time.
3. On February 5, 2021, MDHHS mailed Petitioner an Appointment Notice scheduling Petitioner for a FAP interview on [REDACTED] 2021, at 1:00 p.m.
4. On February 12, 2021, MDHHS denied Petitioner's application for FAP benefits due to failing to be interviewed.

5. As of February 12, 2021, Petitioner's phone blocked calls from her MDHHS specialist.
6. As of February 12, 2021, MDHHS did not mail Petitioner a Notice of Missed Interview.
7. On March 2, 2021, Petitioner requested a hearing to dispute the denial of FAP benefits.

CONCLUSIONS OF LAW

The Food Assistance Program [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. MDHHS administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute a denial of an application requesting FAP benefits. Exhibit A, pp. 4-5. It was not disputed that Petitioner applied for FAP benefits on [REDACTED] 2021. A Notice of Case Action dated February 12, 2021, stated that Petitioner's application was denied due to a failure to complete an interview. Exhibit A, pp. 9-12.

For FAP benefits, MDHHS must conduct an interview before approving benefits. BAM 115 (July 2020) p. 20. Interviews must be scheduled promptly to meet standards of promptness. *Id.*, p. 24.

MDHHS alleged that Petitioner was mailed two different notices for appointments: on [REDACTED] 2021, and [REDACTED] 2021. The earlier appointment date is not known, but a Notice of Appointment verified that the latter interview appointment was for [REDACTED] 2021. Exhibit A, pp. 6-7. MDHHS further alleged that for each scheduled appointment, Petitioner was called and failed to be interviewed. MDHHS supported its allegations with telephone records verifying calls to Petitioner on January 11, 2021, February 5, 2021 (twice), February 8, 2021, and February 12, 2021. Exhibit A, p. 11. Petitioner's testimony acknowledged that she missed the calls because her phone accidentally blocked calls from MDHHS. Petitioner's testimony implied an excuse for missing the scheduled interviews; accidentally blocking MDHHS's calls is not a valid excuse for not being interviewed. Despite MDHHS's efforts, it did not comply with all of its procedural requirements.

If a client misses an interview appointment, MDHHS is to send a Notice of Missed Interview advising a client that it is his/her responsibility to request another interview

date. *Id.* If the client calls to reschedule, the interview should be held no later than the 30th day after application, if possible. *Id.*

During the hearing, MDHHS was asked if a Notice of Missed Interview was sent to Petitioner following either of her missed appointments. MDHHS testimony acknowledged that a Notice of Missed Interview was not mailed to Petitioner. By failing to send Petitioner the required form, Petitioner was not properly notified of her responsibility to contact MDHHS to reschedule an interview.

Given the evidence, MDHHS failed to comply with its procedural requirements in interviewing Petitioner. Thus, the denial of Petitioner's application due to failing to be interviewed was improper. As a remedy, Petitioner is entitled to reprocessing of her application.

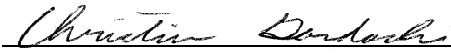
DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly denied Petitioner's application for FAP benefits. It is ordered that MDHHS commence the following actions within 10 days of the date of mailing of this decision:

- (1) Re-register Petitioner's application requesting FAP benefits dated [REDACTED] 2021;
- (2) Process Petitioner's application subject to the finding that MDHHS failed to properly inform Petitioner of a missed interview appointment; and
- (3) Issue a supplement of benefits, if any, and updated notice in accordance with policy.

The actions taken by MDHHS are **REVERSED**.

CG/cc



Christian Gardocki
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-Oakland-6303-Hearings
BSC4-HearingDecisions
D. Sweeney
M. Holden
MOAHR

Petitioner- Via USPS:

