



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: April 16, 2021
MOAHR Docket No.: 21-001079
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 30, 2021. [REDACTED], the Petitioner, appeared on her own behalf. The Department of Health and Human Services (Department) was represented by Lianne Scupholm, Hearing Facilitator.

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-13.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefit case?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Petitioner was an ongoing recipient of FAP.
2. On December 31, 2020, Petitioner submitted a Redetermination. (Exhibit A, pp. 7-11)
3. An appointment was scheduled for January 6, 2021 at 1:15 pm. (Exhibit A, p. 7)
4. On January 6, 2021, the Eligibility Specialist (ES) attempted to call Petitioner but the call would not connect, therefore the interview could not be completed. (Exhibit A, p. 13)

5. On January 6, 2021, a Notice of Missed Appointment was issued to Petitioner. In part, it was explained that an interview is required to redetermine FAP benefits and it was now Petitioner's responsibility to reschedule the interview before January 31, 2021 or the redetermination would be denied. Petitioner was to contact the ES to reschedule the interview. (Exhibit A, p. 12)
6. On January 29, 2021, the ES attempted to call Petitioner for the interview, there was no answer, and a voicemail was left. (Exhibit A, p. 13)
7. Petitioner's FAP case closed effective February 1, 2021 because the required interview was not completed. (Exhibit A, p. 1)
8. On February 18, 2021, Petitioner filed a hearing request contesting the Department's determination. (Exhibit A, pp. 3-6)

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.

The Michigan Department of Health & Human Services (MDHHS) must periodically redetermine or renew an individual's eligibility for active programs. The redetermination/renewal process includes thorough review of all eligibility factors. BAM 210, January 1, 2021, p. 1.

For FAP, the Department is to conduct a telephone interview at redetermination before determining ongoing eligibility. BAM 210, pp. 5-7. The interview date and time is included in the Redetermination packet. BAM 210, pp. 8-9.

A FAP group loses its right to uninterrupted FAP benefits if it fails to do any of the following: file the FAP redetermination by the timely filing date; participate in the scheduled interview; or submit verifications timely, provided the requested submittal date is after the timely filing date. BAM 210, p. 22. If a client files an application for redetermination before the end of the benefit period, but fails to take a required action, the case is denied at the end of the benefit period. BAM 210, p. 22.

In this case, Petitioner submitted a Redetermination on December 31, 2020. (Exhibit A, pp. 7-11) As indicated on the Redetermination form, an appointment was scheduled for January 6, 2021 at 1:15 pm. (Exhibit A, p. 7)

On January 6, 2021, the ES attempted to call Petitioner but the call would not connect, therefore the interview could not be completed. (Exhibit A, p. 13) Petitioner explained that she answered the call but no one was on the line. (Exhibit A, p. 3; Petitioner Testimony)

On January 6, 2021, a Notice of Missed Appointment was issued to Petitioner. In part, it was explained that an interview is required to redetermine FAP benefits and it was now Petitioner's responsibility to reschedule the interview before January 31, 2021 or the redetermination would be denied. Petitioner was to contact the ES to reschedule the interview. (Exhibit A, p. 12) Petitioner credibly testified that she tried to re-connect with the ES. Petitioner called and left several messages. Petitioner requested that a new appointment be scheduled and a notice mailed to her as she cannot access her case on the BRIDGES website. Petitioner did not receive a new appointment notice in the mail. Once the ES called Petitioner, but it was around 9:00 am and Petitioner was sleeping. Petitioner had been dealing with some serious health issues. (Exhibit A, pp. 3-5; Petitioner Testimony) The case comments show that on January 29, 2021, the ES attempted to call Petitioner at 9:36 am for the interview, there was no answer, and a voicemail was left. (Exhibit A, p. 13)

Petitioner's FAP case closed effective February 1, 2021 because the required interview was not completed. (Exhibit A, p. 1)

Overall, the evidence does not support the closure of Petitioner's FAP case. It was uncontested that there was a technical issue with the telephone connection on the original interview date of January 6, 2021. Petitioner credibly testified that she made several attempts to contact the ES and left messages requesting that a new appointment be scheduled and a notice mailed to her as she cannot access her case on the BRIDGES website. While the ES made a second attempt to call Petitioner on January 29, 2021, there is no evidence that notice of an appointment was sent to Petitioner for that call. Rather, Petitioner testified that she did not receive notice of a new appointment or anything in the mail.

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 closed Petitioner's FAP case.

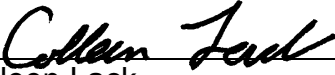
DECISION AND ORDER

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. Re-determine Petitioner's eligibility for FAP retroactive to February 1, 2021 in accordance with Department policy.
2. Issue written notice of the determination in accordance with Department policy.
3. Supplement for lost benefits (if any) that Petitioner was entitled to receive, if otherwise eligible and qualified 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

Carisa Drake
Calhoun County DHHS – via electronic
mail

BSC3 – via electronic mail

M. Holden – via electronic mail

D. Sweeney – via electronic mail

Petitioner

[REDACTED] – via first class mail

[REDACTED]
MI [REDACTED]