



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 30, 2021
MOAHR Docket No.: 21-001247
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 April 15, 2021. [REDACTED] Mother, represented the Petitioner. [REDACTED] the Petitioner, appeared and testified. The Department of Health and Human Services (Department) was represented by Rollin Carter, hearing Facilitator.

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-16.

ISSUE

Did the Department properly deny Petitioner's [REDACTED] 2021 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] 2021, Petitioner applied for FAP. (Exhibit A, pp. 11-16)
2. An interview was scheduled for February 23, 2021, at 3:00 pm. (Exhibit A, pp. 1 and 5)
3. On February 23, 2021, the Department called Petitioner attempting to complete the interview. The call did not go through and the Department was unable to leave a message due to technical difficulties. (Exhibit A, p. 10)

4. On February 23, 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 March 3, 2021 or the application would be denied. Petitioner was to contact the ES to reschedule the interview. (Hearing Facilitator Testimony)
5. On March 5, 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. 6-9)
6. On March 8, 2021, Petitioner requested a hearing contesting the denial of the FAP application. (Exhibit A, pp. 4-5)

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] 2021. (Exhibit A, pp. 11-16) An interview was scheduled for February 23, 2021, at 3:00 pm. (Exhibit A, pp. 1 and 5)

On February 23, 2021, the Department called Petitioner attempting to complete the interview. The call did not go through and the Department was unable to leave a message due to technical difficulties. (Exhibit A, p. 10) On February 23, 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 March 3, 2021 or the application would be denied. Petitioner was to contact the ES to reschedule the interview. (Hearing Facilitator Testimony)

On March 5, 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. 6-9)

Petitioner and her mother explained that she was available by phone on February 23, 2021 at 3:00 pm but did not receive the call from the Department worker. Petitioner called the worker at 3:16 pm and left a message for the Department worker. Calls were made again on March 1, 2021 at 8:30 am and March 5, 2021 at 8:30 am. The Department worker never called back. (Exhibit A, p. 5; Mother Testimony)

Overall, the denial of the [REDACTED] 2021, FAP application was not in accordance with the above cited BAM 115 policy. The case record documents that there were technical difficulties when the Department called Petitioner for the interview on February 23, 2021. (Exhibit A, p. 10) Petitioner and her mother provided specific dates and times that they attempted to reach the Department worker to have the interview rescheduled, which is found credible. Accordingly, the denial based on not completing the interview process cannot be upheld.

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 [REDACTED] 2021 FAP application.

DECISION AND ORDER

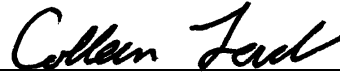
Accordingly, the Department's decision is **REVERSED**.

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 the [REDACTED] 2021 FAP application 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

Elisa Daly
Saginaw County DHHS – via electronic
mail

BSC2 – via electronic mail

M. Holden – via electronic mail

D. Sweeney – via electronic mail

Petitioner

██████████ – via first class mail

██

██████████, MI ██████████

Authorized Hearing Rep.

██████████ – via first class mail

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██████████ MI ██████████