



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]

Date Mailed: April 21, 2021
MOAHR Docket No.: 21-001497
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 on April 15, 2021. Petitioner participated and was unrepresented. [REDACTED], Petitioner's wife, testified on behalf of Petitioner. The Michigan Department of Health and Human Services (MDHHS) was represented by Katrice Louis, specialist. [REDACTED], of [REDACTED] participated as an Arabic-English translator.

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], 2020, Petitioner applied for FAP benefits.
2. On December 21, 2020, MDHHS mailed Petitioner an Appointment Notice scheduling Petitioner for a FAP interview on December 22, 2020, at 10:30 a.m.
3. On December 22, 2020, MDHHS failed to call Petitioner for a FAP interview.
4. On December 22, 2020, MDHHS mailed Petitioner a Notice of Missed Interview.
5. As of January 5, 2021, the specialist assigned to Petitioner's case was on a leave of absence.

6. On January 5, 2021, Petitioner called the specialist listed on the notice of appointment and was unable to leave a voicemail.
7. On January 13, 2021, Petitioner called the specialist listed on the notice of appointment and was unable to leave a voicemail.
8. On January 19, 2021, MDHHS denied Petitioner's application for FAP benefits due to failing to be interviewed.
9. On [REDACTED] 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. 4-6. Petitioner's application was dated [REDACTED]. Exhibit A, pp. 8-13. A Notice of Case Action dated January 19, 2021, stated that Petitioner's application for FAP benefits was denied due to a failure to complete an interview. Exhibit A, pp. 17-20.

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. 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.* If the client completes the application process between the 31st and 60th day following application, MDHHS is to re-register the application on the date that the client completes the process. *Id.*, p. 25.

MDHHS contended that Petitioner was called several times concerning an interview for an application for FAP benefits. MDHHS presented documentation of comments on Petitioner's case documenting several calls to Petitioner. Exhibit A, p. 14. Calls to Petitioner were documented on December 21, 2020, January 8, 2021, January 13, 2021, February 8, 2021, and February 12, 2021. MDHHS contended that the calls to Petitioner demonstrated compliance with policy in efforts to interview Petitioner. Despite the calls to Petitioner, MDHHS did not meet its procedural obligations.

MDHHS mailed Petitioner a Notice of Interview on December 21, 2020. Notably, the interview was scheduled for the following day at 10:30 a.m. MDHHS policy does not specify how much time MDHHS must allow for mailing when sending clients notice of interviews; an implied requirement of scheduling interviews is ensuring enough mailing time so that the client receives the notice before the appointment. Unsurprisingly, Petitioner's testimony denied receiving the notice before the scheduled interview date and time. Sending a notice of an interview appointment the day before an interview appointment is insufficient notice.

Though MDHHS failed to give Petitioner proper notice of an interview appointment by mail, Petitioner's wife testified that MDHHS informed her by telephone of the interview. She further testified that she waited for MDHHS's call on the scheduled interview date, and no call came. MDHHS had no evidence to suggest otherwise. Notably, the comments documenting several calls to Petitioner did not document any call to Petitioner on the interview date of December 22, 2020.

MDHHS did call Petitioner on January 8, 2021, and January 13, 2021. Petitioner testified that he called MDHHS on each of those dates but was unable to leave a voicemail. Petitioner's testimony was consistent with MDHHS's testimonial acknowledgement that the specialist assigned to Petitioner's case at the time was on a leave of absence from employment. Generally, specialists on leaves of absences will have full voicemails.

A specialist credibly testified that she eventually became responsible for Petitioner's case and spoke with Petitioner on February 8, 2021. She further testified that she told Petitioner that his application was denied due to a failure to be interviewed. As of February 8, 2021, Petitioner's application was less than 60 days old; thus, Petitioner's application could have at least been re-registered through "subsequent processing". The specialist acknowledged that no attempt was made to interview Petitioner on the date she spoke with Petitioner.

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 re-registration of his original application and a full 30 days to comply with interview requirements.


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], 2020;
- (2) Process Petitioner's application subject to the finding that MDHHS failed to comply with its procedural requirements in interviewing Petitioner; and
- (3) Issue a supplement of benefits and notice, if any, in accordance with policy.

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

CG/tm



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-2-Hearings
M. Holden
D. Sweeney
BSC4
MOAHR

Petitioner – Via First-Class Mail:

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