



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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██████████, MI ██████████

Date Mailed: May 26, 2021
MOAHR Docket No.: 21-001921
Agency No.: ██████████
Petitioner: ██████████

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 May 20, 2021. Petitioner participated and was unrepresented.¹ The Michigan Department of Health and Human Services (MDHHS) was represented by Princess Ogundipe, specialist.

ISSUES

The first issue is whether MDHHS properly denied Petitioner's application requesting Food Assistance Program (FAP) benefits.

The second issue is whether MDHHS properly failed to subsequently process Petitioner's application requesting FAP benefits.

The second issue is whether MDHHS properly denied Petitioner's application requesting Medical Assistance (MA) 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 ██████████, 2021, Petitioner applied for FAP and MA benefits.²

¹ Petitioner purposely departed the hearing before the record was closed. Despite her departure, sufficient evidence was taken to consider Petitioner's disputes on their merits.

² Petitioner additionally applied for cash and State Emergency Relief benefits which were not the subject of this hearing.

2. On February 6, 2021, MDHHS mailed Petitioner a Health Care Coverage Supplemental Questionnaire (HCCSQ) giving Petitioner a due date of February 16, 2021 to return the form.
3. On February 8, 2021, MDHHS mailed Petitioner an Appointment Notice scheduling Petitioner for a FAP interview on February 16, 2021, at 8:30 a.m.
4. On February 8, 2021, MDHHS called Petitioner and left a voicemail message asking for a return call.
5. On February 16, 2021, MDHHS called Petitioner and received a message stating that Petitioner's voicemail was full.
6. On February 16, 2021, MDHHS mailed Petitioner a Notice of Missed Interview informing Petitioner to call MDHHS to schedule an interview by March 7, 2021, or risk having her application denied.
7. On [REDACTED] 2021, MDHHS denied Petitioner's application for FAP benefits due to failing to be interviewed.
8. On [REDACTED] 2021, MDHHS denied Petitioner's application for MA benefits due to Petitioner's failure to return the HCCSQ.
9. As of March 8, 2021, Petitioner had not returned a HCCSQ to MDHHS.
10. On March 12, 2021, MDHHS advised Petitioner that her interview was denied due to a failure to be interviewed.
11. On [REDACTED] 2021, Petitioner requested a hearing to dispute the denial of FAP and MA 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 submitted a written statement to MDHHS in requesting a hearing. Exhibit A, p. 3. Petitioner's statement referenced difficulties in completing paperwork because she was nursing an ill friend. Petitioner's statement did not include any reference to specific actions being disputed. Thus, her motive for requesting a hearing was unclear. Petitioner's testimony clarified that she intended to request a hearing, in part, to dispute a denial of FAP benefits. It was not disputed that Petitioner applied for FAP benefits on [REDACTED] 2021. A Notice of Case Action dated March 8, 2021, stated that MDHHS

denied her application due to a failure to complete the interview process.³ Exhibit A, pp. 7-10.

For FAP benefits, MDHHS must conduct an interview before approving benefits. BAM 115 (January 2021) 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.*

MDHHS testified that it telephoned Petitioner on February 8, 2021, and left a message asking for a return call. That same date, MDHHS sent Petitioner an Appointment Notice informing Petitioner of an interview date of February 16, 2021. Exhibit A, pp. 4-5. MDHHS testified that a specialist attempted to call Petitioner at the scheduled interview date and time, and Petitioner did not answer. MDHHS further testified that Petitioner's voicemail was full; thus, a voicemail asking for a return call could not be left. In compliance with its policy, MDHHS mailed Petitioner a Notice of Missed Interview informing Petitioner to call MDHHS to schedule an interview by March 7, 2021, or her application would be denied. Exhibit A, p. 6. MDHHS testimony indicated that it received no calls from Petitioner before her case was closed on March 8, 2021. Petitioner abandoned the hearing before providing any testimony rebutting the evidence.

Given the evidence, MDHHS properly denied Petitioner's application on [REDACTED], 2021, due to a failure to be interviewed. Despite the proper denial, Petitioner's application could have been subsequently processed.

"Subsequent processing" allows for a FAP application to be processed after it is denied. BAM 115 (January 2021) p. 25. If a client completes the application process between the 31st and 60th day following the application date, MDHHS is to reregister the application with the date that the application process is completed. *Id.*

MDHHS testimony acknowledged that Petitioner called MDHHS on March 12, 2021, and a discussion was held. MDHHS stated that it explained to Petitioner that her application was denied, thereby implying that nothing more could be done. MDHHS gave no evidence to explain why Petitioner was not interviewed on that date. Notably, MDHHS offices were closed from the COVID-19 pandemic during Petitioner's entire application process. Thus, Petitioner would have no method of contacting a specialist other than a telephone call. The limited means of communicating with MDHHS should place specialists on notice that interviews should be conducted at any opportunity there are discussions with a client.

Given the evidence, Petitioner attempted to complete the FAP application process on [REDACTED], 2021 but was rebuffed by MDHHS. MDHHS's failure to interview Petitioner is

³ Petitioner objected to the entirety of the hearing because she requested an adjournment of the hearing based on not receiving a hearing packet. Petitioner's request for adjournment was denied after MDHHS credibly testified that it emailed the person responsible for mailing packets who stated that Petitioner was mailed a packet on April 19, 2021. Throughout the hearing, Petitioner repeatedly requested adjournment, seemingly for the purpose of submitting previously requested documents.

a reversible error. As a remedy, Petitioner is entitled to a reinstatement of her application from [REDACTED], 2021.

Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. MDHHS (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MDHHS policies are contained in BAM, BEM, and RFT.

Petitioner testified that her other reason for requesting a hearing was to dispute a denial of MA benefits. A Health Care Coverage Determination dated March 8, 2021, stated that Petitioner's application was denied due to a failure to timely return a HCCSQ. Exhibit A, pp. 24-26.

The HCCSQ is used to gather additional information when the applicant indicates a disability on the application for MA benefits. BEM 105 (April 2017), p. 4. For all programs, MDHHS is to tell the client what verification is required, how to obtain it, and the due date. BAM 130 (April 2017), p. 3. MDHHS is to allow the client 10 calendar days (or other time limit specified in policy) to provide the verification that is requested. *Id.*, p. 7. For MA benefits, MDHHS is to send a negative action notice when:

- The client indicates refusal to provide a verification, or
- The time period given has elapsed.

Id., p. 8.

MDHHS sent Petitioner a HCCSQ on February 6, 2021, giving Petitioner a due date of February 16, 2021 to return. Exhibit A, pp. 20-23. MDHHS testified that Petitioner returned various documents with her application on [REDACTED], 2021, and additional documents on April 7, 2021. MDHHS further testified that none of Petitioner's submissions included the HCCSQ.

Petitioner repeatedly testified that she returned numerous documents to MDHHS without ever referencing the HCCSQ. Though Petitioner testified that she kept copies of the documents sent to MDHHS, Petitioner was unable to state whether a HCCSQ was timely returned. A failure to return a HCCSQ was consistent with Petitioner's hearing request concession that she has difficulty finding time to complete paperwork because of her caring of a friend.

Given the evidence, Petitioner failed to timely return a HCCSQ. Thus, MDHHS properly denied Petitioner's application for MA benefits. As discussed during the hearing, Petitioner's recourse is to reapply for MA benefits.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly denied Petitioner's application for MA benefits dated [REDACTED] 2021. Concerning the denial of MA benefits, the actions taken by MDHHS are **AFFIRMED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly denied Petitioner's application for FAP benefits dated [REDACTED] 2021. Concerning the denial of FAP benefits, the actions taken by MDHHS are **AFFIRMED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly failed to process 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 for an attempted process completion date of [REDACTED] 2021, and reschedule Petitioner for an interview; and
- (2) Process Petitioner's application in accordance with policy.

Concerning the subsequent processing of Petitioner's application, the actions taken by MDHHS are **REVERSED**.

CG/tm



Christian Gardocki

Administrative Law Judge

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
M. Holden
D. Sweeney
L. Karadsheh
C. George
EQADHearings
BSC4
MOAHR

Petitioner – Via First-Class Mail:

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██████████, MI ██████████