



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: June 21, 2021
MOAHR Docket No.: 21-002274
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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 June 10, 2021. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Michelle Collins, Hearings Coordinator.

ISSUE

Did the Petitioner submit a timely request for hearing?

Did the Department properly close Petitioner's 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 October 24, 2020, the Department received Petitioner's completed Redetermination.
2. On October 30, 2020, Petitioner called her casework Mr. Young and left a voicemail indicating that she was going to be out of town on the day of her scheduled Redetermination interview and when she returned, she would call him.
3. On November 2, 2020, Mr. Young left a voicemail for Petitioner indicating he had received her message and to call him when she was home.
4. On November 5, 2020, Mr. Young left a voicemail for Petitioner attempting to complete the Redetermination Interview as scheduled.

5. On November 5, 2020, the Department issued a Notice of Missed Appointment to Petitioner indicating she had missed her Redetermination Interview, that it was her responsibility to reschedule by November 30, 2020, and that if she failed to complete the interview, her FAP benefits would be denied.
6. On November 6, 2020, Petitioner called Mr. Young and left a voicemail indicating she was home and able to complete her interview.
7. On November 9, 2020, Mr. Young left two voicemails for Petitioner indicating he received her message that she was home and ready for her interview.
8. On November 11, 2020, Petitioner left another voicemail for Mr. Young.
9. On [REDACTED] 2020, Mr. Young called Petitioner and they spoke for 21 mins and 6 seconds about Petitioner's Redetermination, completing the interview requirement.
10. Case comments made by Mr. Young only reflect calls to Petitioner on November 5, 2020; November 9, 2020; and November 23, 2020, no other contact is recorded within the case comments.
11. No Notice of Case Action was issued to Petitioner informing her that her FAP case had closed effective December 1, 2020.
12. From November through February, Petitioner continued to use her accumulated FAP benefits.
13. On March 9, 2021, Petitioner first realized that she had not been receiving her monthly allotment of FAP benefits and left a voicemail for Mr. Young.
14. On March 10, 2021, Mr. Young left a voicemail for Petitioner saying that her case had closed because she had not completed her telephone interview.
15. On March 30, 2021, Petitioner uploaded her call logs and screen shots of her transcribed voicemails to her Bridges account to prove that the interview had taken place but received no response.
16. On April 5, 2021, Petitioner left a voicemail for Mr. Young's supervisor.
17. On April 9, 2021, Petitioner became sick with COVID-19.
18. On May 5, 2021, Petitioner filed her request for hearing disputing the closure of her FAP benefits.

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.

In this case, Petitioner submitted a request for hearing more than five months after the closure of her FAP case for failure to complete the Redetermination Interview. In all programs, the client has 90 calendar days from the date of the written notice of case action to request a hearing. BAM 600 (January 2020), p. 6. In FAP cases, the group loses the right to uninterrupted FAP benefits if it fails to complete the scheduled interview. BAM 210 (October 2020), p. 21. When the Redetermination is not completed, Bridges automatically closes the case and a DHS-1605, Notice of Case Action is not generated. BAM 210, p. 13. A Notice of Missed Interview was issued to Petitioner on November 5, 2020. On November 12, 2020, Petitioner completed her Redetermination via a 21 minute and 6 second phone call with her case worker. On December 1, 2020, Petitioner's FAP case was closed but no Notice of Case Action was issued because Bridges closed the case automatically. Since no Notice of Case Action was issued, the 90-day timeliness rule is inapplicable as there was no Notice of Case Action to trigger the start of the 90-day timeliness period. Therefore, Petitioner's request for hearing is considered timely. Even if the Notice of Missed Interview was somehow construed as the notice of case action, Petitioner was acting under the belief that her interview had been completed on [REDACTED] 2020 and should not have any reason to believe that her FAP benefits had closed. She was only alerted to the problem once the accumulated benefits she had received as a result of the COVID-19 policies had dwindled and she noticed she had not received new allotments. Petitioner's hearing request is timely.

The Department closed Petitioner's FAP case because it alleged that Petitioner had not completed the Redetermination Interview. Although Department records appear to show that the Department contacted Petitioner without success to complete the FAP interview, Petitioner provided ample evidence to show that not only was the Department's case file lacking, but that she had in fact completed the FAP interview on [REDACTED] 2020, well within the period for completion. Therefore, closure of Petitioner's FAP case was not in accordance with Department policy.

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 for failure to complete the Redetermination Interview.

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. Redetermine Petitioner's FAP eligibility effective December 1, 2020;
2. If otherwise eligible, issue supplements to Petitioner for FAP benefits not previously received; and,
3. Notify Petitioner in writing of its decision.

AMTM/tlf



Amanda M. T. Marler
Administrative Law Judge

