



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: July 23, 2021
MOAHR Docket No.: 21-002596
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 July 14, 2021, from Lansing, Michigan. [REDACTED], the Petitioner, appeared on her own behalf. The Department of Health and Human Services (Department) was represented by Melissa Stanley, Hearing Facilitator (HF).

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-56.

ISSUE

Did the Department properly deny ongoing Food Assistance Program (FAP) benefits for Petitioner?

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's FAP case was due for Redetermination by the end of March 2021.
2. On February 18, 2021, Petitioner submitted a Redetermination form, in part reporting that the household only had income from [REDACTED]. (Exhibit A, pp. 8-12)

3. On March 4, 2021, the Department called Petitioner for the Redetermination Interview, but Respondent could not be reached and a message could not be left as the phone rang once then went silent and hung up. (Exhibit A, p. 26)
4. On March 4, 2021, a Notice of Missed Appointment was issued to Petitioner stating it was now Petitioner's responsibility to reschedule the interview before March 31, 2021. (Exhibit A, p. 18)
5. On March 18, 2021, the Department returned a call from Petitioner, but again Respondent could not be reached and a message could not be left as the phone rang once then went silent and hung up. (Exhibit A, p. 26)
6. On April 7, 2021 a Notice of Case Action was issued to Petitioner stating FAP benefits would be denied effective April 1, 2021 and ongoing because Petitioner missed the Redetermination Interview. It was noted that if the interview was completed within 30 days of the end of the benefit period, Petitioner may be eligible from the date the interview requirement was completed. Petitioner would need to reapply if the interview was not completed within 30 days of March 31, 2021. (Exhibit A, pp. 13-17)
7. On April 20, 2021, a Redetermination Interview was completed with Petitioner by phone. In part, Petitioner reported that the only income was a donation from a friend. The Department gave Petitioner 10 days to provide verification of unearned income and child support expense. (Exhibit A, pp. 22-26)
8. On or about April 21, 2021, Petitioner submitted an Income Withholding for Support showing withholding income from [REDACTED] [REDACTED] Verification of the donation income was also provided. (Exhibit A, pp. 29-31)
9. On April 22, 2021, a Verification Checklist was issued to Petitioner requesting verification of child support expenses as well as verification of the unearned income from donation by an April 30, 2021 due date. (Exhibit A, pp. 19-21)
10. On April 30, 2021, a Consolidated Inquiry Report did not verify [REDACTED] (Exhibit A, pp. 1, 26-28)
11. On April 30, 2021, the Department called Petitioner about the [REDACTED] Petitioner reported she does not have [REDACTED] income and she has never received [REDACTED] Due to the discrepancy in income, the Department withdrew subsequent processing of FAP eligibility. The Department let Petitioner know she would have to reapply for FAP. (Exhibit A, p. 26)
12. On April 30, 2021, a Notice of Case Action was issued to Petitioner stating FAP was denied based on a failure to provide verification of information necessary to determine eligibility for this program. (Exhibit A, pp. 47-50)
13. On [REDACTED] 2021, Petitioner reapplied for FAP. (Exhibit A, pp. 32-39)

14. On May 13, 2021, Petitioner verbally requested a hearing contesting the Department's determination. (Exhibit A, pp. 3-5)
15. The ██████ 2021 FAP application was still being pending and no eligibility determination had been made when the May 13, 2021 hearing request was filed. (Exhibit A, pp. 1 and 40-46; HF Testimony)

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.

As discussed, there is no jurisdiction to review the Department's determination for the ██████ 2021 FAP application as part of this appeal because no eligibility decision had been made for this application when the May 13, 2021 hearing request was filed. (Exhibit A, pp. 1 and 40-46; HF Testimony)

The Department 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. Benefits stop at the end of the benefit period unless a redetermination is completed and a new benefit period is certified. BAM 210, p. 3.

Policy requires that an interview be completed before eligibility is determined for a FAP redetermination. If the clients miss an interview appointment, the Department's computer system sends a DHS-254, Notice of Missed Interview. BAM 210, pp. 5-6.

The DHS-254, Notice of Missed Interview advises the client that it is their responsibility to request another interview date. BAM 115, January 1, 2021, p. 24.

A FAP group loses its right to uninterrupted FAP benefits if it fails to: 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. Any of these reasons can cause a delay in processing the redetermination. When the group is at fault for the delay, the redetermination must be completed within 30 days of the compliance 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. The Department is to proceed as follows if the client takes the required action within 30 days after the end of the benefit period: re-register the redetermination application using the date the client completed the process; if the client is eligible, prorate benefits from the date the redetermination application was registered. BAM 210, p. 22.

Petitioner's FAP case was due for Redetermination by the end of March 2021.

On February 18, 2021, Petitioner submitted a Redetermination form, in part reporting that the household only had income from donation or contribution. (Exhibit A, pp. 8-12)

On March 4, 2021, the Department called Petitioner for the Redetermination Interview, but Respondent could not be reached and a message could not be left as the phone rang once then went silent and hung up. (Exhibit A, p. 26) Accordingly, on March 4, 2021, a Notice of Missed Appointment was issued to Petitioner stating it was now Petitioner's responsibility to reschedule the interview before March 31, 2021. (Exhibit A, p. 18)

On March 18, 2021, the Department returned a call from Petitioner, but again Respondent could not be reached and a message could not be left as the phone rang, then went silent, and hung up. (Exhibit A, p. 26)

On April 7, 2021 a Notice of Case Action was issued to Petitioner stating FAP benefits would be denied effective April 1, 2021 and ongoing because Petitioner missed the Redetermination Interview. It was noted that if the interview was completed within 30 days of the end of the benefit period, Petitioner may be eligible from the date the interview requirement was completed. Petitioner would need to reapply if the interview was not completed within 30 days of March 31, 2021. (Exhibit A, pp. 13-17)

On April 20, 2021, a Redetermination Interview was completed with Petitioner by phone. In part, Petitioner reported that the only income was a donation from a friend. The Department gave Petitioner 10 days to provide verification of unearned income and child support expense. (Exhibit A, pp. 22-26)

On or about April 21, 2021, Petitioner submitted an Income Withholding for Support showing withholding income from [REDACTED]. Verification of the donation income was also provided. (Exhibit A, pp. 29-31)

On April 22, 2021, a Verification Checklist was issued to Petitioner requesting verification of child support expenses as well as verification of the unearned income from donation by an April 30, 2021 due date. (Exhibit A, pp. 19-21) It appears that this verification checklist was manually generated pursuant to the April 20, 2021 Redetermination Interview and the Department worker had not yet seen the verifications the Department received from Petitioner on April 21, 2021. (Exhibit A, p. 26)

When the verifications Petitioner submitted were processed, it was noted that there was a discrepancy with income. Petitioner reported only the donation income. However, the

Income Withholding for Support indicated Petitioner was receiving [REDACTED]. The Department worker ran a Consolidated Inquiry Report, which did not verify [REDACTED] (Exhibit A, pp. 1, 26-28). On April 30, 2021, the Department worker called Petitioner about the [REDACTED]. Petitioner reported she does not have [REDACTED] income and she has never received [REDACTED]. Due to the discrepancy in income, the Department withdrew subsequent processing of FAP eligibility. The Department let Petitioner know she would have to reapply for FAP. (Exhibit A, p. 26). On April 30, 2021, a Notice of Case Action was issued to Petitioner stating FAP was denied based on a failure to provide verification of information necessary to determine eligibility for this program. (Exhibit A, pp. 47-50).

Petitioner testified that she never received [REDACTED] (Petitioner Testimony). However, sufficient verification of whether Petitioner received [REDACTED] had not been provided to determine Petitioner's eligibility for ongoing FAP benefits within 30 days of the end of the prior benefit period, March 31, 2021. Petitioner submitted the Income Withholding for Support indicating she received [REDACTED]. The Department was unable to verify this income by running a Consolidated Inquiry Report. Petitioner had not provided any other verification to resolve the discrepancy with [REDACTED] income.


Pursuant to BAM 210, the Department's actions were proper. Petitioner timely filed the Redetermination form, but failed to take a required action, specifically completing the required interview. Therefore, ongoing benefits were properly denied at the end of the benefit period. Petitioner did complete the interview within 30 days after the end of the benefit period, however additional verifications were needed. The verifications the Department received, and the reports the Department was able to obtain on their own, were not sufficient to determine ongoing eligibility for FAP because the [REDACTED] income discrepancy had not been resolved. Therefore, subsequent processing could not be completed within 30 days of the end of the prior benefit period, March 31, 2021, and Petitioner would have to reapply for FAP.

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 acted in accordance with Department policy when it denied ongoing FAP benefits for Petitioner.

DECISION AND ORDER

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

CL/ml



Colleen Lack
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

DHHS – via electronic mail

MDHHS-Saginaw-Hearings
BSC2
M. Holden
D. Sweeney

Petitioner – via first class mail

[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]