



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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Date Mailed: August 18, 2021
MOAHR Docket No.: 21-002985
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun

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 August 12, 2021, from Detroit, Michigan. Petitioner did not appear for the hearing. Petitioner was represented by her Authorized Hearing Representative (AHR), ██████████. The Department of Health and Human Services (Department) was represented by Valarie Foley, Hearing Facilitator.

ISSUE

Did the Department properly deny Petitioner's 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 ██████████ 2021, Petitioner submitted an application for FAP benefits.
2. On June 3, 2021, Petitioner's case worker from the Department attempted to contact her for an interview but was unable to reach her and left a voicemail requesting that Petitioner return the call.
3. On June 3, 2021, the Department sent Petitioner an Appointment Notice informing her that she was scheduled for an application interview appointment on Monday, June 7, 2021, at 9:30 AM. (Exhibit A, p.15)
4. The Department attempted to contact Petitioner for her application interview on June 7, 2021, at 8:35 AM and again at 12:55 PM. The Department did not contact Petitioner at the scheduled appointment time. (Exhibit A, p. 14)

5. On June 7, 2021, the Department sent Petitioner a Notice of Missed Interview instructing her to contact the Department by June 9, 2021, to reschedule the interview, otherwise, her FAP application would be denied. (Exhibit A, p. 16)
6. On June 8, 2021, Petitioner's Authorized Representative (AR) sent an email to A. White, Petitioner's case worker, attempting to reschedule the application interview and providing the Department with an alternate phone number for Petitioner. (Exhibit 1)
7. On June 9, 2021, the Department sent Petitioner a Notice of Case Action advising her that her May 10, 2021, FAP application was denied because she failed to complete the interview requirement. The Notice of Case Action further advised Petitioner that if she completes the interview process within 60 days of the application and she is otherwise determined eligible for FAP benefits, her benefits would be prorated from the date she completed the interview requirement. If she does not complete the interview requirement within 60 days, she will need to reapply. (Exhibit A, pp. 17-20)
8. On June 14, 2021, Petitioner's AR called Petitioner's case worker A. White and sent another email regarding the rescheduling of the application interview. The AR provided the case worker with her phone number and the two phone numbers that could be used to contact Petitioner to conduct the interview. (Exhibit 1)
9. On June 14, 2021, Petitioner requested a hearing disputing the denial of her FAP application. (Exhibit A, pp. 3-4,11-12)

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, the Department asserted that it denied Petitioner's FAP application because she failed to participate in an application interview. For FAP cases, the Department is to conduct an interview at application FAP before approving benefits. BAM 115 (January 2021), p. 18-19. The Department is to schedule the interview promptly, in order to meet the standard of promptness. For FAP cases, the interview must be held by the 20th day after the application date to allow the client at least 10

days to provide the verifications by the 30th day. BAM 115, p. 24. Applicants are required to participate in the FAP interview process. If a client misses an interview appointment, the Department will send a DHS-254, Notice of Missed Interview, advising the client that it is now the client's responsibility to request another interview date. It sends a notice only after the first missed interview. If the client calls to reschedule, the Department will set the interview prior to the 30th day, if possible. If the client fails to reschedule or misses the rescheduled interview, the Department will deny the application on the 30th day. BAM 115, pp.18-24. If the client completes the application process after denial but within 60 days of the application date, the Department is to follow the subsequent processing policy outlined in BAM 115, and issue FAP benefits to Petitioner if determined eligible. BAM 115, pp. 25-26.

At the hearing, the Department testified that the case worker assigned to Petitioner's case attempted to contact Petitioner on June 7, 2021 for the scheduled interview, but Petitioner did not answer. It was established that the case worker did not contact Petitioner at the scheduled time for the interview, however, and instead called at 8:35 AM and 12:55 PM. The Department testified that it sent Petitioner a Notice of Missed Interview on June 7, 2021, instructing her to contact the Department by June 9, 2021, to have the interview rescheduled, otherwise the application would be denied. The Department stated that it sent Petitioner a Notice of Case Action on June 9, 2021, denying the application because she failed to attend the FAP application interview within 30 days of her application date.

Petitioner's AHR testified that Petitioner received the Appointment Notice scheduling the interview for June 7, 2021, at 9:30 AM in the afternoon on June 7, 2021, after the interview time had passed. The AHR testified that she made telephone calls and sent emails to Petitioner's case worker A. White on June 8, 2021, and June 14, 2021, informing the case worker that the Appointment Notice was received in the afternoon of June 7, 2021, after the interview time, attempting to reschedule the application interview, and providing the Department with an alternate phone number for Petitioner, as well as phone numbers where the AR could be reached for the interview. Petitioner's AHR submitted the emails as evidence in support of her testimony. (Exhibit 1). Petitioner's AHR identified the phone number that she called, and the email used to communicate with Petitioner's case worker. She testified that she received no response to the emails sent. Petitioner's case worker was not present at the hearing to refute the testimony provided by Petitioner's AHR. Petitioner's AHR further argued that there was insufficient time to have the interview rescheduled before June 9, 2021, as the Notice of Missed Interview was dated June 7, 2021, and it was not received by Petitioner prior to June 9, 2021, due to mail delays.

The evidence established that Petitioner and/or her AR contacted the Department on more than one occasion in an attempt to participate in or have her application interview rescheduled prior to the June 9, 2021, deadline identified on the Notice of Missed Interview. Therefore, 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. Register and reprocess Petitioner's [REDACTED] 2021, FAP application to determine her eligibility for FAP benefits from the application date, ongoing;
2. Issue FAP supplements to Petitioner for any benefits she was eligible to receive but did not from the application date, ongoing; and
3. Notify Petitioner and her AHR in writing of its decision.

ZB/jm



Zainab A. Baydoun
Administrative Law Judge

