



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: October 6, 2021
MOAHR Docket No.: 21-003884
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 on September 27, 2021. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Eileen Kott, Manager, and Dale Daniely. Danielle Nuccio, administrative law judge with the Michigan Office of Administrative Hearings and Rules, observed the hearing.

ISSUE

The issue is whether MDHHS properly denied 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 applied for FAP benefits.
2. On June 30, 2021, MDHHS called Petitioner for an interview; Petitioner did not answer.
3. On July 28, 2021, MDHHS denied Petitioner's FAP application due to an alleged failure of Petitioner to be interviewed.
4. As of July 28, 2021, MDHHS had not mailed Petitioner a Notice of Missed Interview form.

5. 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 FAP benefits. Exhibit A, pp. 5-6. Petitioner applied for FAP benefits on [REDACTED], 2021. Exhibit A, pp. 13-21. An Application Notice dated July 28, 2021, stated that Petitioner's application was denied due to failing to meet interview requirements. Exhibit A, pp. 22-25.

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.*

A specialist testified that he called Petitioner on June 30, 2021 for an interview and she did not answer.¹ The specialist's testimony was corroborated by comments inputted for Petitioner's case. Exhibit A, p. 10. MDHHS further testified that Petitioner did not call for an interview resulting in MDHHS denying Petitioner's case on the 30th day following the application date. For purposes of this decision, it will be accepted that Petitioner was given notice of the interview appointment on June 30, 2021, and that she failed to answer her phone at the time of the interview.²

Even accepting that Petitioner missed her interview, MDHHS presented no evidence that Petitioner was mailed a Notice of Missed Interview form. The form advises clients of a missed interview, the need to call MDHHS within 30 days of the application date, and the consequence of a denied application for failing to do so. The MDHHS failure to send a Notice of Missed Interview renders a denial to be improper when based on a client failing to be interviewed.

¹ Petitioner testified that she "always" answers her phone and denied being called on June 30, 2021.

² The evidence did not establish that Petitioner was given notice of an appointment on June 30, 2021; it only established that Petitioner was called on that date.

Given the evidence, MDHHS improperly denied Petitioner's application for FAP benefits. As a remedy, Petitioner is entitled to a reprocessing of the application.³

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) Reinstate Petitioner's application dated [REDACTED], 2021 requesting FAP benefits;
and
- (2) Reprocess Petitioner's application subject to the finding that MDHHS failed to send Petitioner a Notice of Missed Interview.

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

CG/tm



Christian Gardocki
Administrative Law Judge

³ MDHHS's Hearing Summary cited concerns about Petitioner's application reporting of assets, income, and household members. Exhibit A, pp. 1-4. This decision makes no findings on the legitimacy of those concerns because MDHHS took no negative action because of Petitioner's assets, income, and/or household members

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-Wayne76-Hearings
M. Holden
D. Sweeney
BSC4
MOAHR

Petitioner – Via First-Class Mail:

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