



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: April 8, 2022  
MOAHR Docket No.: 22-000591  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Linda Jordan**

### **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, hearing was held on April 4, 2022 via teleconference. Petitioner appeared and represented himself. Mohammad Ali served as a Bengali interpreter for Petitioner. Brian Francek, Eligibility Specialist, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department).

### **ISSUES**

1. Did Petitioner present a triable issue regarding his eligibility for cash assistance?
2. Did MDHHS properly deny Petitioner's Food Assistance Program (FAP) application?

### **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 [REDACTED], 2022, Petitioner applied for FAP (Exhibit A, pp. 8-18).
2. On February 1, 2022, MDHHS sent Petitioner an Appointment Notice, indicating that he had a telephone appointment scheduled for February 7, 2022 at 2:00 pm (Exhibit A, p. 19). The notice stated that an MDHHS representative would call Petitioner (Exhibit A, p. 19).

3. On February 7, 2022, MDHHS called Petitioner with an interpreter from the interpretation company, Linguistica, but was unable to reach Petitioner (Exhibit A, p. 20).
4. On February 7, 2022, MDHHS sent a Notice of Missed Appointment to Petitioner, indicating that Petitioner recently missed his interview and that it was now Petitioner's responsibility to reschedule the interview prior to February 9, 2022 or his application would be denied (Exhibit A, p. 21).
5. On February 9, 2022, MDHHS sent Petitioner a Notice of Case Action, indicating that his application for FAP was denied, effective January 10, 2022 ongoing, due to failing to complete the interview requirement (Exhibit A, p. 22-26).
6. On February 16, 2022, Petitioner filed a Request for a Hearing disputing the denial of his FAP application (Exhibit A, pp. 3-5). On the Request for Hearing, Petitioner also indicated that he was challenging the closure of his Family Independence Program (FIP) and State Disability Assistance (SDA)/cash assistance cases (Exhibit A, p. 4).

### **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).

#### **Cash Assistance (FIP/SDA)**

Petitioner's Request for Hearing indicated that he was disputing the closure of his cash assistance (FIP/SDA) cases, as well as the denial of his FAP application (Exhibit A, p. 4). However, no information was presented from either party regarding Petitioner's eligibility for cash assistance

State actions which entitle a client to a hearing include a denial of an application, a reduction in the amount of program benefits, a suspension or termination of program benefits, restrictions under which benefits are provided, and a delay of any action beyond the standard of promptness. BAM 600 (March 2021), p. 5. At the hearing, Petitioner confirmed that he requested the hearing to dispute the denial of his FAP application only. Because Petitioner did not present a triable issue regarding his eligibility for cash assistance, the Michigan Office of Administrative Hearings and Rules (MOAHR) lacks jurisdiction to consider the issue and his request for hearing on that matter is dismissed.

#### **Food Assistance Program (FAP)**

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. MDHHS 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 disputed the denial of his FAP application due to failing to complete the interview requirement. When an individual applies for FAP benefits, MDHHS is required to conduct an interview to explain the program requirements and to gather information necessary for determining the applicant's eligibility. BAM 115 (July 2021), pp. 17-18. MDHHS must conduct a telephone interview prior to approving FAP benefits. BAM 115, p. 20. The interview must be held by the 20th day after the application date in order to allow the client at least ten days to provide requested verifications by the 30th day. BAM 115, p. 24. If a client misses an interview appointment, MDHHS must send a Notice of Missed Interview advising the client that it is their responsibility to request another interview date. BAM 115, p. 24. MDHHS only sends a Notice of Missed Interview after the first missed interview. *Id.* MDHHS may not deny the application for failure to complete the scheduled interview until the 30th day after the application even if the client has returned all verifications. BAM 115, p. 19.

Here, the record shows that Petitioner applied for FAP benefits on January 10, 2022. On February 1, 2022, MDHHS sent Petitioner an Appointment Notice, indicating that he had a telephone appointment scheduled for February 7, 2022 at 2:00 pm (Exhibit A, p. 19). Thus, the record shows that MDHHS did not schedule the FAP interview by the 20th day after the application date.

At the hearing, MDHHS credibly testified and provided documentation that it called Petitioner with an interpreter at the scheduled time and that Petitioner did not answer. MDHHS further stated that it could not leave Petitioner a message because his mailbox was full. Petitioner disputed this, testifying that he sat by the phone all afternoon on the scheduled interview date and that he did not receive a call.

Despite these conflicting accounts, the record is clear that MDHHS did not schedule the telephone interview by the 20th day after the application date, pursuant to BAM 115, p. 24. After the interview attempt was unsuccessful, MDHHS sent Petitioner a Notice of Missed Appointment on February 7, 2022. The Notice of Missed Appointment stated that Petitioner missed his scheduled appointment and that it was now Petitioner's responsibility to contact MDHHS to complete the appointment (Exhibit A, p. 21). The notice further stated that if Petitioner failed to contact MDHHS by February 9th, a mere two days after the notice was sent, then Petitioner's FAP application would be denied. Given this short timeline, it is unlikely that Petitioner received the Notice of Missed Appointment before his case was denied two days later. Therefore, Petitioner was denied a meaningful opportunity to remedy the situation created by the missed telephone interview.

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 MDHHS did not act in accordance with Department policy when it denied Petitioner's FAP Application for failing to complete the interview requirement.

**DECISION AND ORDER**

Accordingly, Petitioner's Request for Hearing regarding cash assistance is **DISMISSED** and MDHHS' decision regarding Petitioner's FAP application is **REVERSED**.

MDHHS 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. Reregister and reprocess the January 10, 2022 FAP application;
2. If Petitioner is eligible for benefits, issue supplements to Petitioner for any FAP benefits he was eligible to receive but did not from January 10, 2022 ongoing;
3. Notify Petitioner of its decision in writing.



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**Linda Jordan**  
Administrative Law Judge

LJ/tm

**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

**Email Recipients:**

MDHHS-Macomb-20-Hearings  
M. Holden  
D. Sweeney  
BSC4  
MOAHR

**First-Class Mail Recipient:**

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