



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: April 29, 2022
MOAHR Docket No.: 22-001341
Agency No.: ██████████
Petitioner: ██████████ ██████████

ADMINISTRATIVE LAW JUDGE: Danielle Nuccio

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 April 25, 2022. The Petitioner appeared and represented himself. The Department of Health and Human Services (MDHHS) was represented by Courtney Steverson, Eligibility Specialist.

ISSUE

Did MDHHS properly deny Petitioner's ██████████ 2022 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 ██████████ 2022, Petitioner submitted an application for FAP benefits.
 - a. Petitioner reported that he is a group size of two, consisting of his wife and himself.
 - b. Petitioner reported that he served in the military.
 - c. Petitioner reported that he currently has a disability or a physical, mental, or emotional health condition.

(Exhibit A, pp. 7-13).

2. On January 25, 2022, MDHHS issued an Appointment Notice to Petitioner that he has a telephone interview with MDHHS on February 2, 2022 (Exhibit A, p. 14).

3. On February 2, 2022, a Notice of Missed Appointment was issued to Petitioner, informing him that he missed his scheduled interview and now must reschedule the interview prior to February 23, 2022 (Exhibit A, p. 16).
4. On February 23, 2022, MDHHS issued a Notice of Case Action to Petitioner, notifying him that his FAP application was denied due to failure to complete the required interview (Exhibit A, pp. 17-21).
5. On March 23, 2022, MDHHS received a timely submitted hearing request from Petitioner disputing the denial of his FAP application for failing to complete the application interview (Exhibit A, pp. 4-5).

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.

Petitioner requested a hearing regarding the denial of his FAP application for failing to complete the interview with MDHHS.

Following registration of a FAP application, MDHHS must interview clients. BAM 115 (July 2021), p. 1. The purpose of the interview is to explain program requirements to the applicant and to gather information for determining the group's eligibility. BAM 115, pp. 17-18. During the interview, MDHHS will:

- State the client's rights and responsibilities
- Review and update the application.
- Help complete application items not completed when it was filed.
- Resolve any unclear or inconsistent information.
- Request needed verification not brought to the interview.
- Advise the client of the standard of promptness for processing.
- Make services referrals if needed.
- Confirm if the client needs a MiHealth card and/or Bridge card.
- Advise how and when they receive benefits.

BAM 115, pp. 18-19.

FAP interviews must be held by phone by the 20th day after the application date to allow the client at least 10 days to provide verifications by the 30th day. If clients miss an interview appointment, Bridges sends a Notice of Missed Interview, advising them that it is the clients' responsibility to request another interview date. It sends a notice only after the first missed interview. If the client calls to reschedule, the interview will be scheduled prior to the 30th day from application submission, if possible. If the client fails to reschedule or misses the rescheduled interview, the application will be denied on the 30th day after it was submitted. BAM 115, p. 24.

In this case, MDHHS testified that the caseworker called Petitioner on the date of the interview appointment and left him a voicemail. Petitioner credibly testified that he received this call at 10:33AM. Petitioner explained that he is a disabled veteran that is currently suffering from Post-Traumatic Stress Disorder (PTSD) and as a result has difficulties sleeping. Petitioner testified that he was asleep when MDHHS called him for the interview. Petitioner credibly testified that he called MDHHS back the same date of the interview at 4:46PM and left a message. He stated that the total call was one minute long. Petitioner testified that he did not understand the MDHHS policies and timeframes and waited on a return call from them. MDHHS confirmed that that they had only attempted to contact Petitioner on the interview date and had no record of the message that he left. MDHHS did not attempt to contact Petitioner until receiving his request for a hearing. Petitioner testified that he cannot recall if he received the Notice of Missed Interview. Since Petitioner did contact MDHHS, he should have been given an opportunity to have the interview rescheduled and the Department should have applied the subsequent processing policy outlined in BAM 115. Additionally, MDHHS concedes that they only attempted to call Petitioner one time to complete the interview. Given that Petitioner clearly reported to MDHHS in his application that he is a disabled veteran, MDHHS only giving him one opportunity to complete the interview is not reasonable under the circumstances. Therefore, MDHHS did not act in accordance with policy in denying Petitioner's FAP application for failure to complete the application 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 that the Department did not act in accordance with Department policy when it denied Petitioner's FAP application.

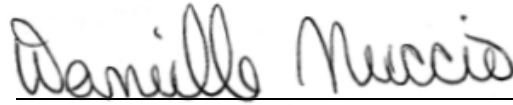
DECISION AND ORDER

Accordingly, MDHHS' 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. Reprocess Petitioner's [REDACTED] 2022 FAP application;

2. If eligible, issue supplements for FAP benefits that Petitioner was eligible to receive but did not;
3. Notify Petitioner of its decision in writing.



Danielle Nuccio
Administrative Law Judge

DN/mp

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
D. Sweeney
M. Holden
MOAHR
BSC4

First-Class Mail Recipient:

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