



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: June 6, 2022
MOAHR Docket No.: 22-001942
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 May 31, 2022. The Petitioner appeared and was represented by Authorized Hearing Representative (AHR) ██████████. The Department of Health and Human Services (MDHHS) was represented by Amanda Mason, Assistant Payments Worker, and Demetria Davis, Family Independence Manager.

It is noted that after the hearing, the AHR submitted numerous additional proposed exhibits which are not admitted due to not being admitted during the hearing. Thus, only MDHHS Exhibit A, B, C, and D, and Petitioner Exhibit 1, which were properly filed and admitted, are part of the formal record.

ISSUES

1. Did MDHHS properly deny Petitioner's January 4, 2022 Food Assistance Program (FAP) application for failure to complete the application interview?
2. Did MDHHS properly close Petitioner's FAP case effective March 1, 2021?
3. Did MDHHS properly close Petitioner's Medical Assistance (MA) case from April 2019 to October 2019?

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 applied for FAP.

2. On January 4, 2022, MDHHS issued an Appointment Notice to Petitioner informing him that a telephone interview was scheduled for Tuesday, January 11, 2022, at 10:30AM, stating that MDHHS will call Petitioner at phone number [REDACTED]. The Notice states that if the phone number is incorrect, Petitioner must call the MDHHS office as soon as possible (Exhibit B, p. 1).
3. On January 11, 2022, MDHHS issued an Appointment Notice to Petitioner informing him that a telephone interview was scheduled for Tuesday, January 18, 2022, at 11:00AM, stating that MDHHS will call Petitioner at phone number [REDACTED]. The Notice states that if the phone number is incorrect, Petitioner must call the MDHHS office as soon as possible (Exhibit C, p. 1).
4. On January 18, 2022, MDHHS issued a Notice of Missed Appointment to Petitioner regarding the required FAP application interview. In this notice, MDHHS advised Petitioner that it was his responsibility to reschedule the interview, otherwise his application would be denied (Exhibit D, p. 1).
5. On February 4, 2022, MDHHS notified Petitioner that his FAP application was denied for failure to complete the application interview.
6. On March 1, 2022, Petitioner e-mailed his caseworker notifying her that she was using the incorrect telephone number when attempting to interview him (Exhibit 1, p. 1).
7. On May 3, 2022, MDHHS received Petitioner's hearing request disputing:
 - a. The denial of his January 4, 2022 FAP application;
 - b. His FAP case closure from March 2021 to March 2022;
 - c. His loss of MA from April 2019 to October 2019.(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.

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

Petitioner disputes MDHHS's denial of his FAP application for failing to complete the required interview with MDHHS.

Following registration of a FAP application, MDHHS **must** interview clients. BAM 115 (July 2021), p. 1 (Emphasis added). 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, p. 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.

On January 4, 2022, MDHHS issued an Appointment Notice to Petitioner informing him that a telephone interview was scheduled for Tuesday, January 11, 2022, at 10:30AM, stating that MDHHS will call Petitioner at phone number [REDACTED]. The Notice states that if the phone number is incorrect, Petitioner must call the MDHHS office as soon as possible. MDHHS testified that they attempted to interview Petitioner on January 11, 2022, calling [REDACTED]. Petitioner testified that this was the correct phone number for him, although it is not the phone number listed on the Appointment

Notice. Petitioner did not answer the phone call and MDHHS left him a voicemail message. On January 11, 2022, MDHHS issued an Appointment Notice to Petitioner informing him that a telephone interview was scheduled for Tuesday, January 18, 2022, at 11:00AM, stating that MDHHS will call Petitioner at phone number [REDACTED]. The Notice states that if the phone number is incorrect, Petitioner must call the MDHHS office as soon as possible. MDHHS testified that they attempted to interview Petitioner on January 18, 2022, calling [REDACTED] again. MDHHS stated that Petitioner did not answer the phone call and MDHHS left him a voicemail message. Petitioner acknowledges that he did not answer either call but states that the caseworker called the wrong phone number. Petitioner presented an e-mail in which he notified the caseworker on March 1, 2022 that the phone number listed on both Appointment Notices was incorrect. However, Petitioner should have notified MDHHS that the phone number was incorrect prior to his application denial. Since Petitioner has not completed the application interview as required, MDHHS acted in accordance with policy in denying his [REDACTED] 2022 FAP application.

Petitioner also challenges that his FAP case closed effective March 1, 2021 and that he did not receive MA from April 2019 to October 2019. Regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in Mich Admin Code, R 792.10101 to R 792.10137 and R 792.11001 to R 792.11020. Rule 792.11002(1) provides as follows:

An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance is denied or is not acted upon with reasonable promptness, has received notice of a suspension or reduction in benefits, or exclusion from a service program, or has experienced a failure of the agency to take into account the recipient's choice of service.

A client's request for hearing must be in writing and signed by an adult member of the eligible group, or authorized hearing representative (AHR). BAM 600 (March 2021), p. 1-2. The client or AHR has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received in the local office within the 90 days. BAM 600, p. 6.

In this case, Petitioner requested a hearing on May 3, 2022 regarding the closure of his FAP case in 2021 and MA case in 2019. Upon review, because Department policy requires that an appeal must be filed within 90 days of the case closure and notice of such closure, Petitioner's May 3, 2022 request for hearing is untimely. Therefore, this request is **DISMISSED** for lack of jurisdiction.

Petitioner reapplied for FAP on March 30, 2022 and currently has active FAP benefits from March 30, 2022 ongoing (see Exhibit A, pp. 18-22). The AHR confirmed that there is no challenge to Petitioner's current monthly FAP amount.

At the hearing, MDHHS confirmed that Petitioner currently has an active MA case. The AHR confirmed that there is no challenge to Petitioner's current MA coverage.

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 Petitioner's [REDACTED] 2022 FAP application for failure to complete the required interview.

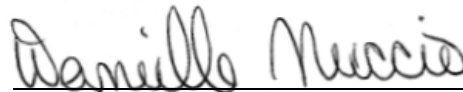
DECISION AND ORDER

Accordingly, MDHHS' decision is **AFFIRMED**.

Petitioner's May 3, 2022 hearing request regarding the closure of his FAP case from March 2021 to March 2022 is **DISMISSED**.

Petitioner's May 3, 2022 hearing request regarding the closure of his MA case is **DISMISSED**.

DN/mp



Danielle Nuccio

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

