



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED] MI [REDACTED]

Date Mailed: September 15, 2022
MOAHR Docket No.: 22-003500
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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 line on September 8, 2022. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Michelle Collins, hearing facilitator.

ISSUE

The issue is whether MDHHS properly terminated Petitioner's Food Assistance Program (FAP) eligibility.

FINDINGS OF FACT

The administrative law judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. As of June 2022, Petitioner was an ongoing recipient of FAP benefits with a benefit period certified through July 2022.
2. On June 4, 2022, MDHHS mailed Claimant a Redetermination form scheduling Claimant for an interview on July 1, 2022.
3. On June 24, 2022, Claimant timely submitted to MDHHS a Redetermination form reporting no income. The Redetermination form also stated that MDHHS would call Petitioner for an interview on July 1, 2022.
4. On July 1, 2022, MDHHS did not call Petitioner for a redetermination interview.

5. On July 1, 2022, MDHHS mailed Petitioner a Notice of Missed Interview form informing Petitioner of the responsibility to contact MDHHS before the end of July 2022.
6. On various dates after July 1, 2022, Petitioner called MDHHS to complete an interview,
7. Beginning [REDACTED] 2022, MDHHS ended Petitioner's FAP eligibility.
8. On July 27, August 11, and August 22, 2022, MDHHS called Petitioner who did not answer.
9. On August 9, 2022, Petitioner requested a hearing to dispute the termination of FAP benefits.
10. On August 9, 2022, MDHHS sent Petitioner notice of a prehearing conference to be held "at our office".
11. On August 22, 2022, Petitioner called MDHHS and went to the MDHHS office to be interviewed for her benefit redetermination.

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 termination of FAP benefits. Exhibit, pp. 4-5. A Notice of Missed Appointment stated that Petitioner's FAP eligibility would end [REDACTED] 2022 due to Petitioner's failure to either submit a DHS-1010 and/or failing to be interviewed. Exhibit A, p. 7.

MDHHS testimony acknowledged that Petitioner timely submitted a Redetermination form in June 2022. MDHHS testimony also acknowledged that it failed to contact Petitioner for an interview scheduled for July 1, 2022. Seemingly, Petitioner's FAP eligibility improperly closed; however, MDHHS alleged that Petitioner's eligibility properly ended because it attempted to correct its failure to call Petitioner and an interview has still not been completed.

For all programs, a complete redetermination is required at least every 12 months. BAM 210 (January 2021) p. 3. Bridges, the MDHHS database, automatically sends a redetermination packet to the client three days prior to the negative action cut-off date in

the month before the end of the benefit period. *Id.*, p. 8. For FAP benefits, the redetermination process begins when the client files a DHS-1010 or other acceptable form. *Id.*, p. 3. FAP benefits stop at the end of the benefit period unless a DHS-1010 is completed and a new benefit period is certified. *Id.* If the redetermination packet is not logged in by the last working day of the redetermination month, the MDHHS database automatically closes the case and a Notice of Case Action is not generated. *Id.*, p. 14.

Petitioner's specialist documented that Petitioner was called on July 27, August 11, and August 22, 2022. Each time, Petitioner did not answer. In defense of Petitioner, the calls on July 27 and August 11 were unscheduled; Petitioner cannot be faulted for failing to answer an unexpected call. MDHHS did schedule an interview with Petitioner on August 22, 2022 and sent proper notice. Exhibit A, p. 15. MDHHS scheduled a prehearing conference with Petitioner at the same of the interview to bolster Petitioner's probability of participation. Exhibit A, p. 6. MDHHS testified that Petitioner was called on August 22, 2022, at the scheduled interview/conference time and did not answer.

Petitioner testified that she was at the MDHHS office for her prehearing conference/interview, but was turned away due to MDHHS primarily conducting client business through telephone. Petitioner also testified that she called MDHHS at the time of her prehearing conference/interview, and MDHHS did not answer. Petitioner further testified that she called MDHHS on various occasions after July 1, 2022, to ensure continued FAP benefits.

Petitioner's testimony was credible in that she had incentive to continue receiving FAP benefits. Petitioner was presumably neither ignorant nor negligent about FAP closure as she requested a hearing on August 9, 2022. Petitioner cannot be faulted for going to the MDHHS office for her interview scheduled at the same time as the prehearing conference as the prehearing conference notice stated that the conference would occur "at our office". Exhibit A, p. 5. Thus, Petitioner complied with MDHHS's second interview request. Given the evidence, Petitioner did not fail to be interviewed for redetermination.

MDHHS also contended that Petitioner's FAP eligibility properly ended due to a failure to return verifications. MDHHS mailed Petitioner a VCL on August 11, 2022, requesting, among other items, proof of Petitioner's income.¹ Exhibit A, pp. 13-14. Petitioner failed to return proof of income by the VCL deadline of August 22, 2022. However, MDHHS seemingly had no purpose in requesting proof of income as none was reported on Petitioner's Redetermination form. MDHHS testified that it requested income verification because Petitioner claimed expenses without reporting any income. As it happened, Petitioner testified that she sometimes received income for childcare services. Nevertheless, MDHHS did not establish that Petitioner had an expectation of future income. Without a proper basis for requesting income, the closure of Petitioner's FAP eligibility cannot be affirmed.

¹ The VCL also requested proof of Petitioner's electricity and heat expense. Regardless of Petitioner's compliance with the request, a failure to verify a heat or electric expense does not justify closure of FAP benefits.

Given the evidence, MDHHS improperly terminated Petitioner's FAP eligibility beginning [REDACTED] 2022. As a remedy, Petitioner is entitled to a redetermination of FAP benefits.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly terminated Petitioner's FAP eligibility beginning [REDACTED] 2022. It is ordered that MDHHS commence the following actions within 10 days of the date of mailing of this decision:

- (1) Reprocess Petitioner's redetermination of FAP benefits beginning [REDACTED] 2022, subject to the findings that Petitioner did not fail to be interviewed or fail to return income verification; and
- (2) Issue supplements and notice, if any, in accordance with policy.

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

CG/mp



Christian Gardocki
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

Via-Electronic Mail :

DHHS
MDHHS-Wayne-55-Hearings
D. Sweeney
M. Holden
MOAHR
BSC4

Via-First Class Mail :

Petitioner
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