



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: September 27, 2022
MOAHR Docket No.: 22-003652
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 September 20, 2022, from Lansing, Michigan. ██████████ the Petitioner, appeared on her own behalf. The Department of Health and Human Services (Department) was represented by Melissa Stanley, Hearing Facilitator.

During the hearing proceeding, the Department's hearing summary packet was admitted as Exhibit A, pp. 1-27.

ISSUE

Did the Department properly deny 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 ██████████ 2022, Petitioner applied for FAP. (Exhibit A, pp. 7-13)
2. On July 22, 2022, an Appointment Notice was issued scheduling a telephone interview for July 29, 2022 at 1:30 p.m. (Exhibit A, p. 14)
3. On July 29, 2022, a Notice of Missed Appointment was issued to Petitioner. In part, it was explained that an interview is required to apply for FAP and it was now Petitioner's responsibility to reschedule the interview before August 14, 2022 or the application would be denied. Petitioner was to contact the Eligibility Specialist (ES) to reschedule the interview. (Exhibit A, p. 15)
4. On ██████████, 2022, Petitioner applied for FAP. (Exhibit A, pp. 16-22)

5. On August 15, 2022, a Notice of Case Action was issued to Petitioner stating FAP was denied based on a failure to complete the interview process. (Exhibit A, pp. 23-26)
6. On August 17, 2022, Petitioner requested a hearing contesting the denial of the FAP application. (Exhibit A, pp. 3-5)

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.

BAM 115 requires that an interview be completed before eligibility is determined for FAP. If the clients miss an interview appointment, the Department is to send a DHS-254, Notice of Missed Interview, advising the client that it is their responsibility to request another interview date. The Department sends a notice only after the first missed interview. If the client calls to reschedule, the Department is to set the interview prior to the 30th day, if possible. If the client fails to reschedule or misses the rescheduled interview, the Department is to deny the application on the 30th day after the application date. BAM 115, July 1, 2022, pp. 17-19 and 23-24.

In this case, Petitioner applied for FAP on [REDACTED] 2022. (Exhibit A, pp. 7-13) On July 22, 2022, an Appointment Notice was issued scheduling a telephone interview for July 29, 2022 at 1:30 p.m. (Exhibit A, p. 14)

On July 29, 2022, a Notice of Missed Appointment was issued to Petitioner. In part, it was explained that an interview is required to apply for FAP and it was now Petitioner's responsibility to reschedule the interview before August 14, 2022 or the application would be denied. Petitioner was to contact the ES to reschedule the interview. (Exhibit A, p. 15)

On [REDACTED] 2022, Petitioner applied for FAP. (Exhibit A, pp. 16-22) This was within the 30-day window of the original application, therefore it was considered a retag of the pending application. (Exhibit A, p. 1) Department policy directs that additional applications filed while an application is pending will be attached to the initial application. See BAM 110, April 1, 2022, p. 8.

On August 15, 2022, a Notice of Case Action was issued to Petitioner stating FAP was denied based on a failure to complete the interview process. (Exhibit A, pp. 23-26)

Petitioner stated that she did not get the appointment notice for the July 29, 2022 interview date until the next day's mail. Petitioner also stated she did not get a phone call on the 29th at either of the phone numbers she listed on the application. Petitioner further stated that she did not receive the Notice of Missed Appointment. Petitioner explained that she kept getting papers that said she was denied so she did not realize she had filed a second application within 30 days. Petitioner indicated she has previously timely submitted paperwork by email but was still denied. Petitioner stated she never hears back from anybody. (Petitioner Testimony) The Hearing Facilitator testified that the Department did not receive the July 29, 2022 Notice of Missed Appointment back as returned mail. (Hearing Facilitator Testimony)

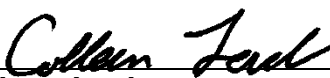
Overall, the denial of the [REDACTED] 2021, FAP application was in accordance with the above cited BAM 115 policy. Petitioner testified that she received the Appointment Notice the day after the scheduled interview. However, Petitioner did not state that she attempted to contact the Department once she was aware of the missed appointment. Ultimately, the required interview was not completed by the 30th day after the application date. Accordingly, the denial based on not completing the interview process is upheld.

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 FAP application.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

CL/ml



Colleen Lack
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
Melissa Stanley
411 East Genesee
PO Box 5070
Saginaw, MI 48607
**MDHHS-Saginaw-
Hearings@michigan.gov**

Interested Parties

BSC2
M. Holden
D. Sweeney
MOAHR

Via First Class Mail :

Petitioner

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