



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 26, 2022
MOAHR Docket No.: 22-003724
Agency No.: ██████████
Petitioner: ██████████

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 on September 21, 2022. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Lavita Davidson, specialist, and Valarie Foley, hearings facilitator.

ISSUE

The issue is whether MDHHS properly denied 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 benefits.
2. On August 3, 2022, MDHHS mailed Petitioner notice of a telephone interview for August 10, 2021 at 8:45 a.m.
3. On August 10, 2022, MDHHS failed to call Petitioner for a telephone interview
4. On August 15, 2022, MDHHS mailed Petitioner notice of a telephone interview for August 16, 2022 at 8:45 a.m.
5. On August 18, 2022, MDHHS denied Petitioner's application due to an alleged failure by Petitioner to be interviewed.

6. On August 26, 2022, Petitioner requested a hearing to dispute the denial of FAP benefits.

CONCLUSIONS OF LAW

The 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 the FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011. FAP 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 denial of FAP benefits. Exhibit A, pp. 3-4. Petitioner applied for FAP benefits on ██████████ 2022. A Notice of Case Action dated August 18, 2022, stated that Petitioner's application was denied due to a failure to comply with interview requirements.¹ Exhibit A, pp. 11-13.

For FAP benefits, MDHHS must conduct a telephone interview before approving benefits. BAM 115 (July 2022) p. 20. Interviews must be scheduled promptly to meet standards of promptness. *Id.*, p. 23. If a client misses an interview appointment, MDHHS is to send a Notice of Missed Interview advising a client that it is his/her responsibility to request another interview date. *Id.* If the client calls to reschedule, the interview should be held no later than the 30th day after application, if possible. *Id.* MDHHS is to not deny the application if the client has not participated in a scheduled initial interview until the 30th day after the application. *Id.*, p. 6 and 18.

MDHHS mailed Petitioner an Appointment Notice on August 10, 2022, scheduling Petitioner for an application telephone interview on August 10, 2022. Exhibit A, p. 7. MDHHS acknowledged failing to call Petitioner on the scheduled interview date. MDHHS attempted to correct its mistake by sending Petitioner notice of an interview on August 15, 2022; the interview was scheduled for the following day at 8:45 a.m. Exhibit A, p. 9. MDHHS alleged that Petitioner was called at the scheduled time of interview and did not answer; Petitioner denied being called.

Even if Petitioner did not answer MDHHS's call on August 16, 2022, MDHHS failed to give proper notice. It is unreasonable for MDHHS to have expected Petitioner to have received notice of a morning appointment when it was mailed the day before.²

MDHHS testimony emphasized that it also called Petitioner on August 15 and August 17, 2022, and Petitioner did not answer. MDHHS's alleged calls to Petitioner are irrelevant because no notice was given to Petitioner for an interview on those dates. Additionally, Petitioner credibly testified that she called MDHHS three times on August 10, 15, 16, and 17, 2022, and MDHHS did not answer her calls.

¹ MDHHS had to testify the date of Notice of Case Action mailing as the presented notice did not include the first page.

² Petitioner unsurprisingly testified that she had not received notice as of the interview date and time.

Given the evidence, MDHHS improperly denied Petitioner's application for FAP benefits due to Petitioner's alleged failure to be interviewed. As a remedy, Petitioner is entitled to a reprocessing of her application.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly denied Petitioner's application for FAP benefits. It is ordered that MDHHS commence the following actions within 10 days of the date of mailing of this decision:

- (1) Reregister Petitioner's application requesting FAP benefits dated [REDACTED] 2022;
and
- (2) Reprocess Petitioner's application subject to the finding that MDHHS failed to establish that Petitioner did not comply with application interview requirements.

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-19-Hearings
D. Sweeney
M. Holden
MOAHR
BSC4

Via-First Class Mail :

Petitioner

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