



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: November 29, 2022
MOAHR Docket No.: 22-004993
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 November 23, 2022. The Petitioner appeared and represented herself. The Department of Health and Human Services (MDHHS) was represented by Valarie Foley, Hearing Facilitator.

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 for a two-person group.
2. On August 30, 2022, MDHHS completed the application interview with Petitioner.
3. On September 2, 2022, Petitioner timely submitted all requested verifications to MDHHS.
4. On September 28, 2022, MDHHS issued a Notice of Case Action informing Petitioner that her FAP application has been denied for failure to complete the interview requirement.
5. On October 25, 2022, MDHHS received Petitioner's timely submitted hearing request disputing the denial of her 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.

Petitioner disputes MDHHS's denial of her [REDACTED] 2022 FAP application for failing to complete a second application interview with MDHHS.

Following registration of a FAP application, MDHHS **must** interview clients. BAM 115 (July 1, 2022), 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. 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 Petitioner completed the application interview on August 30, 2022. Petitioner submitted all requested verifications timely to MDHHS on September 2, 2022. MDHHS testified that no further information was needed from Petitioner in order to process her FAP application. MDHHS testified that Petitioner's interview and verifications were all logged in timely by the Department. MDHHS is unaware of why a second interview was requested of Petitioner and that the second interview not taking place caused Petitioner's application to be denied. Since policy does not require a second interview to be held, and Petitioner submitted all required eligibility information, MDHHS did not act in accordance with policy in denying Petitioner's FAP application.

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 MDHHS did not act in accordance with Department policy when it denied Petitioner's FAP application.

DECISION AND ORDER

Accordingly, the Department's 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. Reregister the [REDACTED] 2022 FAP application;
2. If Petitioner is eligible for benefits, issue supplements to Petitioner for any FAP benefits she was eligible to receive but did not from August 29, 2022 ongoing;
3. Notify Petitioner of its decision in writing.

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

Via-Electronic Mail :

DHHS
MDHHS-Wayne-19-Hearings
D. Sweeney
M. Holden
MOAHR
BSC4

Via-First Class Mail :

Petitioner
[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]