



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

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

Date Mailed: December 9, 2022  
MOAHR Docket No.: 22-005090  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**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 December 1, 2022, from Lansing, Michigan. [REDACTED] the Petitioner, appeared on her own behalf. The Department of Health and Human Services (Department) was represented by Jordan DeBruyn, Eligibility Specialist (ES), and Jasmine Alexander, Assistance Payments (AP) Supervisor.

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-29.

### **ISSUES**

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefit case?

Did the Department properly deny Petitioner's September 21, 2022 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. Petitioner's FAP case was due for Redetermination by the end of August 2022.
2. On July 5, 2022, a Redetermination form was mailed to Petitioner with a due date of July 25, 2022. This form also stated that benefits would end if the form was not submitted. (Exhibit A, p. 5)

3. On July 22, 2022, Petitioner submitted a completed Redetermination form. (Exhibit A, pp. 5-9)
4. An interview for the Redetermination was scheduled for August 1, 2022. (Petitioner Testimony)
5. On August 1, 2022, an ES attempted to contact Petitioner for a telephone interview. The call went straight to voicemail, which was full. (Exhibit A, p. 10)
6. On August 1, 2022, Petitioner was waiting for the Department's call, but her phone never rang. (Petitioner Testimony)
7. On August 1, 2022, a Notice of Missed Appointment was issued to Petitioner. In part, it was explained that an interview is required to apply for or redetermine FAP benefits and it was now Petitioner's responsibility to reschedule the interview before August 31, 2022 or the application/redetermination would be denied. Petitioner was to contact the ES to reschedule the interview. (Exhibit A, p. 11)
8. On August 22, 2022, an ES attempted to contact Petitioner for the redetermination and left a voice mail requesting a call back. (Exhibit A, p 10)
9. Petitioner's FAP case closed at the end of the certification period, August 31, 2022, because the Redetermination process was not completed for ongoing eligibility to be determined. (Exhibit A, p. 10; ES Testimony)
10. On August 31, 2022, a Notice of Case Action was issued to Petitioner stating FAP was closed effective September 1, 2022 because the required interview was not completed. (Exhibit A, pp. 12-16)
11. On ██████████ 2022, Petitioner applied for FAP. (Exhibit A, pp. 17-22)
12. On September 23, 2022, the ES attempted to contact Petitioner for FAP intake and was unable to leave a message because the voicemail was full. (Exhibit A, p. 10)
13. On September 23, 2022, an Appointment Notice was issued to Petitioner scheduling an interview for September 30, 2022, at 3:00 pm. (Exhibit A, p. 23)
14. On September 30, 2022, the Department called Petitioner for the scheduled interview. Petitioner did not answer and a message was left. (Exhibit A, p. 10)
15. On September 30, 2022, a Notice of Missed Appointment was issued to Petitioner. In part, it was explained that an interview is required to apply for or redetermine FAP benefits and it was now Petitioner's responsibility to reschedule the interview before October 21, 2021 or the application/redetermination would be denied. Petitioner was to contact the ES to reschedule the interview. (Exhibit A, p. 24)

16. On October 14, 2022, the ES attempted to contact Petitioner for a follow up interview attempt, Petitioner did not answer and the voicemail box was full. (Exhibit A, p. 10)
17. On October 21, 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. 25-28)
18. On October 25, 2022, Petitioner verbally submitted a hearing request contesting the Department's actions. (Exhibit A, p. 4)
19. On October 26, 2022, an Appointment Notice was issued to Petitioner scheduling an interview for November 2, 2022, at 9:00 am. (Exhibit A, p. 29)
20. On November 2, 2022, the ES called Petitioner for the scheduled interview. Petitioner did not answer and a message was left. (Exhibit A, p. 10)

### **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.

#### **Redetermination**

The Michigan Department of Health & Human Services (MDHHS) must periodically redetermine or renew an individual's eligibility for active programs. The redetermination/renewal process includes thorough review of all eligibility factors. BAM 210, April 1, 2022, p. 1. For FAP, an interview is required before denying a redetermination even if it is clear from the MDHHS-1010 or MDHHS-1171 or other sources that the group is ineligible. BAM 210, p. 5.

The group loses its right to uninterrupted FAP benefits if it fails to do any of the following: file the FAP redetermination by the timely filing date; participate in the scheduled interview; or submit verifications timely, provided the requested submittal date is after the timely filing date. BAM 210, p. 22. If a client files an application for redetermination before the end of the benefit period, but fails to take a required action, the case is denied at the end of the benefit period. BAM 210, p. 22.

In this case, Petitioner timely filed the completed Redetermination form on July 22, 2022. (Exhibit A, pp. 5-9) It was uncontested that an interview for the Redetermination was scheduled for August 1, 2022. (Petitioner Testimony) On August 1, 2022, an ES attempted to contact Petitioner for a telephone interview. The call went straight to voicemail, which was full. (Exhibit A, p. 10) On August 1, 2022, Petitioner was waiting for the Department's call, but her phone never rang. (Petitioner Testimony) Accordingly, it appears there were technological issues as Petitioner credibly testified her phone never rang and the Department presented credible evidence that the call went straight to voicemail.

On August 1, 2022, a Notice of Missed Appointment was issued to Petitioner. In part, it was explained that an interview is required to apply for or redetermine FAP benefits and it was now Petitioner's responsibility to reschedule the interview before August 31, 2022 or the application/redetermination would be denied. Petitioner was to contact the ES to reschedule the interview. (Exhibit A, p. 11) Petitioner's testimony indicated she recalls receiving an August 4, 2022 letter regarding not submitting the redetermination packet. (Petitioner Testimony) The AP Supervisor checked the case history, which does not show any correspondence issued August 4, 2022. (AP Supervisor Testimony)

On August 22, 2022, an ES attempted to contact Petitioner for the redetermination and left a voice mail requesting a call back. (Exhibit A, p 10)

Petitioner's FAP case closed at the end of the certification period, August 31, 2022, because the Redetermination process was not completed for ongoing eligibility to be determined. (Exhibit A, p. 10; ES Testimony) On August 31, 2022, a Notice of Case Action was issued to Petitioner stating FAP was closed effective September 1, 2022 because the required interview was not completed. (Exhibit A, pp. 12-16) This was in accordance with the above cited BAM 210 policy as the required interview was not completed to determine eligibility for a new certification period.

Petitioner testified that she called the Department on September 12 and 30, 2022 as well as October 11 and 12, 2022. (Petitioner Testimony) However, these calls were after August 31, 2022, the end of the FAP certification period.

Overall, the evidence supports the closure of Petitioner's FAP case. Petitioner's FAP case was due for redetermination before the end of August 2022. Pursuant to the BAM 210 policy, if the redetermination process, which includes the required interview, is not completed by the end of the certification period, the case automatically closes. The required interview was not completed with Petitioner by the end of August 2022. Therefore, the closure of Petitioner's FAP case must be upheld.

#### 2022 Application

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. 17-22) On September 23, 2022, the ES attempted to contact Petitioner for FAP intake and was unable to leave a message because the voicemail was full. (Exhibit A, p. 10) On September 23, 2022, an Appointment Notice was issued to Petitioner scheduling an interview for September 30, 2022, at 3:00 pm. (Exhibit A, p. 23)

On September 30, 2022, the Department called Petitioner for the scheduled interview. Petitioner did not answer and a message was left. (Exhibit A, p. 10) On September 30, 2022, a Notice of Missed Appointment was issued to Petitioner. In part, it was explained that an interview is required to apply for or redetermine FAP benefits and it was now Petitioner's responsibility to reschedule the interview before October 21, 2021 or the application/redetermination would be denied. Petitioner was to contact the ES to reschedule the interview. (Exhibit A, p. 24)

On October 14, 2022, the ES attempted to contact Petitioner for a follow up, Petitioner did not answer and the voicemail box was full. (Exhibit A, p. 10)

On October 21, 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. 25-28)

Petitioner testified that she called the Department on September 12 and 30, 2022 as well as October 11 and 12, 2022. Petitioner asserted that she was trying to reach the Department. Petitioner's understanding from a triage was that they changed the phone system, but she continued to try to call and wrote letters to the ES regarding her case. However, Petitioner acknowledged that her attempts were not successful. (Petitioner Testimony) The case record indicates the Department did not receive a call from Petitioner to reschedule the interview until October 25, 2022. (Exhibit A, p. 10)

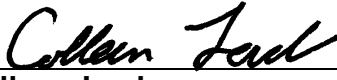
Overall, the denial of the [REDACTED] 2022, FAP application was in accordance with the above cited BAM 115 policy. Petitioner provided testimony regarding her attempts to contact the Department, that were not successful. However, the Department did not receive any Petitioner's communication attempts until October 25, 2022, which was after the October 21, 2021 deadline to reschedule the interview. The required interview was not completed or rescheduled prior to that date. Accordingly, the denial based on not completing the interview must be 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 [REDACTED] 2022 FAP application.

**DECISION AND ORDER**

Accordingly, the Department's decisions are **AFFIRMED**.

CL/ml

  
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**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**  
Kimberly Kornoelje  
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121 Franklin SE  
Grand Rapids, MI 49507  
**MDHHS-Kent-Hearings@michigan.gov**

**Interested Parties**  
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M. Holden  
D. Sweeney

**Via First Class Mail :**

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