



GRETCHEN WHITMER
GOVERNOR

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

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DIRECTOR

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Date Mailed: December 19, 2022
MOAHR Docket No.: 22-005371
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 December 15, 2022. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Sabrina Hopkins, manager.

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 October 7, 2022, MDHHS called Petitioner and received no answer.
3. On November 4, 2022, MDHHS twice called Petitioner and received no answer.
4. On ██████████ 2022, MDHHS denied Petitioner's application due to an alleged failure by Petitioner to be interviewed.
5. As of November 7, 2022, MDHHS did not send Petitioner notice of a scheduled interview or a missed interview.

6. On November 14, 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. 3-5. Petitioner applied for FAP benefits on [REDACTED] 2022. Exhibit A, pp. 6-20. A Notice of Case Action dated [REDACTED] 2022, stated that Petitioner's application was denied due to a failure to complete an interview. Exhibit A, pp. 21-22.

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 (DHS-254) 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 credibly testified that it documented calls to Petitioner on October 7 and November 4, 2022, presumably in efforts to interview Petitioner.¹ MDHHS testified that a voicemail was unable to be left. MDHHS contended Petitioner's failure to answer the calls justified denying Petitioner's application for FAP benefits.

Implied within MDHHS policy is a requirement to send notice of an interview to a client required to be interviewed. There was no evidence that MDHHS issued notice to Petitioner that an interview was to be held. Additionally, there was no evidence that MDHHS notified Petitioner that an interview was missed. MDHHS acknowledged that a Notice of Missed Interview was never sent to Petitioner.

Given the evidence, MDHHS failed to schedule an interview and failed to send notice of any missed interview. Thus, MDHHS's denial of Petitioner's application due to a failure to be interviewed was improper. As a remedy, Petitioner is entitled to a reprocessing of the denied application.

¹ MDHHS testified that two calls were placed to Petitioner on November 4, 2022.

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 schedule an interview or notify Petitioner of a missed interview.

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-57-Hearings
D. Sweeney
M. Holden
MOAHR
BSC4

Via-First Class Mail :

Petitioner

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