



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: February 3, 2023  
MOAHR Docket No.: 22-006191  
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 January 25, 2022, from Lansing, Michigan. [REDACTED] the Petitioner, appeared on her own behalf. The Department of Health and Human Services (Department) was represented by Sara Estes, Hearing Facilitator.

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-69.

During the hearing proceeding jurisdiction was addressed. Petitioner's hearing request indicated she wished to contest the last year of FAP benefits. However, there is only jurisdiction to address case action(s) that occurred within the 90 days prior to the hearing request. BAM 600, March 1, 2021, pp. 6-7. Further, for Food Assistance Program (FAP) only, a hearing request may be written or oral. BAM 600, p. 2.

### **ISSUE**

Did the Department properly deny Petitioner's [REDACTED] 2022 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 [REDACTED] 2022, Petitioner submitted an Assistance Application for FAP, health care coverage, and State Emergency Relief (SER). (Exhibit A, pp. 10-22)

2. On October 21, 2022, a Verification Checklist was issued to Petitioner requesting verification of child support expenses, utility expenses, address, and self-employment by an October 31, 2022 due date. (Exhibit A, pp. 28-31)
3. On October 27, 2022, two attempts were made to contact Petitioner to complete an interview and a voicemail was left each time. (Exhibit A, p. 34)
4. On November 17, 2022, two attempts were made to contact Petitioner to complete an interview and a voicemail could not be left because the voicemail was full. (Exhibit A, p. 33)
5. On November 18, 2022, a Notice of Case Action was issued denying the FAP application based on not completing the interview or providing requested verifications. (Exhibit A, pp. 39-42)
6. On December 15 2022 and December 16, 2022, six additional attempts were made to contact Petitioner for the interview and voicemails were left each time. (Exhibit A, pp. 32-35)
7. On December 21, 2022, Petitioner requested a hearing contesting the FAP denial. (Exhibit A, pp. 6-8)

### **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, October 1, 2022, pp. 17-19 and 22-234.

In general, verification is to be obtained when: required by policy; required as a local office option; and when information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. Verification is usually required at application and at redetermination as well as for a reported change affecting eligibility or benefit level. The Department must tell the client what verification is required, how to obtain it, and the due date. The client must obtain required verification, but the Department must assist if the client needs and requests help. If neither the client nor the Department can obtain verification despite a reasonable effort, the Department should use the best available information. If no evidence is available, the Department is to use their best judgment. BAM 130, January 1, 2022, pp. 1-3.

For FAP, the Department must allow the client 10 calendar days (or other time limit specified in policy) to provide the verification requested. Verifications are considered timely if received by the date they are due. The Department is to send a negative action notice when the client indicates refusal to provide a verification, or the time period given has elapsed and the client has not made a reasonable effort to provide it. If the client contacts the department prior to the due date requesting an extension or assistance in obtaining verifications, the specialist is to assist the client with the verifications but cannot grant an extension. The specialist is to explain to the client they will not be given an extension and their case will be denied once the Verification Checklist Due date is passed. Also, explain that eligibility will be determined based on their compliance date if they return required verifications. The Department is to re-register the application if the client complies within 60 days of the application date; see BAM 115, Subsequent Processing. BAM 130, p. 7.

In this case, Petitioner applied for FAP on [REDACTED] 2022. (Exhibit A, pp. 10-22).

On October 27, 2022, two attempts were made to contact Petitioner to complete an interview and a voicemail was left each time. (Exhibit A, p. 34). On November 17, 2022, two attempts were made to contact Petitioner to complete an interview and a voicemail could not be left because the voicemail was full. (Exhibit A, p. 33). The HF and Petitioner testified regarding the numerous times Petitioner called the Department back, but could not connect. The Department would call Petitioner back but ultimately they were not able to connect with her either. Ultimately the application was denied as the interview had not been completed by the 60-day standard of promptness. (Petitioner and HF Testimony).

However, there was no evidence that Petitioner was sent notice of the October 27, 2022 FAP interview appointment, or any appointment date for the FAP interview. Further, there was no evidence that a DHS-254, Notice of Missed Interview was issued advising Petitioner that it is her responsibility to request another interview date. Accordingly, the denial based on not completing the interview was not in accordance with Department policy.

However, the November 18, 2022 denial was also based on a failure to provide requested verifications. (Exhibit A, pp. 39-42).

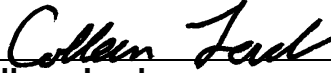
On October 21, 2022, a Verification Checklist was issued to Petitioner requesting verification of child support expenses, utility expenses, address, and self-employment by an October 31, 2022 due date. (Exhibit A, pp. 28-31). A November 17, 2022 case comment documents that no verifications were received. (Exhibit A, p. 33). Petitioner testified that she tried to make strong efforts to follow up with the Department, but she was not receiving her mail. Petitioner was unable to receive mail, which was an unintentional circumstance. (Petitioner Testimony). The evidence supports that the requested verifications were not received by the October 31, 2022 due date. Therefore, the denial based on the failure to provide requested verifications 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 [REDACTED] 2022 FAP application.

**DECISION AND ORDER**

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

Janice Collins  
Genesee County DHHS Union St District  
Office  
125 E. Union St 7th Floor  
Flint, MI 48502  
**MDHHS-Genesee-UnionSt-  
Hearings@michigan.gov**

**Interested Parties**

BSC2  
M Holden  
D Sweeney  
MOAHR

**Via First Class Mail :**

**Petitioner**

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