



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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██████████, MI ██████████

Date Mailed: February 3, 2023
MOAHR Docket No.: 22-006221
Agency No.: ██████████
Petitioner: ██████ ██████

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 26, 2023, from Lansing, Michigan. ██████ ██████ the Petitioner, appeared on her own behalf. The Department of Health and Human Services (Department) was represented by Melissa Stanley, Hearings Facilitator (HF).

During the hearing proceeding, the Department's Hearing Summary Packet was admitted as Exhibit A, pp. 1-20.

ISSUE

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

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 November 2022.
2. On October 4, 2022, a Redetermination form was mailed to Petitioner with a due date of October 24, 2022. (Exhibit A, p. 6)
3. On October 18, 2022, Petitioner submitted a completed Redetermination form. (Exhibit A, pp. 6-10)
4. An interview was scheduled for November 15, 2022, at 8:00 am. (Petitioner and HF Testimony)

5. On November 15, 2022, at 8:08 am the Department called Petitioner for the scheduled interview and left a voicemail. (Exhibit A, p. 13)
6. On November 15, 2022, Petitioner was waiting but never received a call from the Department. (Petitioner Testimony)
7. On November 15, 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 November 30, 2022, or the application/redetermination would be denied. Petitioner was to contact the eligibility specialist to reschedule the interview. (Exhibit A, p. 11)
8. Petitioner's FAP case closed at the end of the certification period, November 30, 2022, because the Redetermination process was not completed for ongoing eligibility to be determined.
9. On December 17, 2022, a Notice of Case Action was issued to Petitioner stating FAP was closed effective December 1, 2022, because the required interview was not completed. (Exhibit A, pp. 14-18)
10. On December 27, 2022, Petitioner submitted a hearing request contesting the Department's actions. (Exhibit A, pp. 3-4)

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.

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, October 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, pp. 31-22. 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's FAP case was due for Redetermination by the end of November 2022. On October 4, 2022, a Redetermination form was mailed to Petitioner with a due date of October 24, 2022. (Exhibit A, p. 6). On October 18, 2022, Petitioner submitted a completed Redetermination form. (Exhibit A, pp. 6-10).

It was uncontested that an interview was scheduled for November 15, 2022, at 8:00 am. (Petitioner and HF Testimony). The Department documented that on November 15, 2022, at 8:08 am Petitioner was called for the scheduled interview and a voicemail was left. (Exhibit A, p. 13). Petitioner testified that on November 15, 2022, she was waiting but never received a call from the Department. (Petitioner Testimony). It is possible that the Department attempted to call, yet due to technical problems, Petitioner never received the call.

On November 15, 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 November 30, 2022, or the application/redetermination would be denied. Petitioner was to contact the ES to reschedule the interview. (Exhibit A, p. 11). Petitioner's FAP case closed at the end of the certification period, November 30, 2022, because the Redetermination process was not completed for ongoing eligibility to be determined. On December 17, 2022, a Notice of Case Action was issued to Petitioner stating FAP was closed effective December 1, 2022, because the required interview was not completed. (Exhibit A, pp. 14-18). 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 signed the required paperwork the Department sent to her and waited for the scheduled phone interview. Petitioner noted that she used to be able to call her caseworker directly, but now there is no way to do that. When Petitioner calls it goes to an automated system and she cannot get through to anyone. Petitioner stated that she went to the Department office, but they did not really help. Petitioner was not allowed to talk to anyone and could only put paperwork in the drobox. Petitioner went to the Department office on December 27, 2022. Petitioner also explained that she has been in special education her whole life and she does not know how to log in to access anything online. (Petitioner Testimony)

Overall, the evidence supports the closure of Petitioner's FAP case. Petitioner's FAP case was due for redetermination before the end of November 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 November 2022. Therefore, the closure of Petitioner's FAP case 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 closed Petitioner's FAP benefit case.

DECISION AND ORDER

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

CL/nr



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
Elisa Daly
411 East Genesee
Saginaw, MI 48607
**MDHHS-Saginaw-
Hearings@michigan.gov**

Interested Parties
Saginaw County DHHS
BSC2
M. Holden
D. Sweeney
MOAHR

Via-First Class Mail :

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