



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
SUZANNE SONNEBORN
EXECUTIVE DIRECTOR

MARLON I. BROWN, DPA
ACTING DIRECTOR

[REDACTED], MI [REDACTED]

Date Mailed: November 14, 2023
MOAHR Docket No.: 23-004919
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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 November 8, 2023. Petitioner appeared and was represented. Jennifer Barker of Lakeshore Legal Aid participated as Petitioner's attorney. The Michigan Department of Health and Human Services (MDHHS) was represented by Tom Jones, supervisor.

ISSUE

The issue is whether MDHHS properly denied Petitioner's Food Assistance Program (FAP) benefit eligibility.

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] 2023, Petitioner applied for FAP benefits.
2. On July 31, 2023, MDHHS sent Petitioner notice of a telephone appointment scheduled for August 7, 2023, at 11:00 a.m.
3. On August 7, 2023, MDHHS called Petitioner for an application interview and received a message that Petitioner's phone was disconnected.
4. On August 8, 2023, Petitioner spoke with MDHHS and was not interviewed.

5. On August 9, 2023, MDHHS denied Petitioner's FAP application due to a failure to be interviewed.
6. On August 9, 2023, Petitioner requested a hearing to dispute the denial of FAP benefits.

CONCLUSIONS OF LAW

The Food Assistance Program [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 FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-119b, and Mich Admin Code, R 400.3001-.3011. MDHHS 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 July 1, 2023. Exhibit A, pp. 6-13. A Notice of Case Action dated August 7, 2023, stated that Petitioner's application was denied due to Petitioner's failure to be interviewed. Exhibit A, pp. 17-20.

For FAP benefits, MDHHS must conduct an interview before approving benefits. BAM 115 (July 2020) p. 20. Interviews must be scheduled promptly to meet standards of promptness. *Id.*, p. 24. If a client misses an interview appointment, MDHHS is to send a Notice of Missed Interview 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 testified it called Petitioner on July 26, July 28, and July 31, 2023, to interview Petitioner. Exhibit A, pp. 14-15. MDHHS also testified that Petitioner did not answer any of the calls. *Id.* The evidence established that on July 31, 2023, MDHHS sent Petitioner notice of a telephone interview appointment for August 7, 2023. Exhibit A, p. 16. It was not disputed that Petitioner again did not answer. MDHHS suspected Petitioner had a spam blocker installed on her telephone which blocked MDHHS's calls.

Petitioner testified she did not receive any calls from MDHHS before or on August 7, 2023. On August 7, 2023, the date of her telephone interview appointment, Petitioner testified she called MDHHS and accepted the option to be called back after waiting 45 minutes. Petitioner did not speak with MDHHS until August 8, 2023. MDHHS documented that it told Petitioner that she was called multiple times and her application was denied because she never answered. MDHHS further documented that Petitioner was rude, threatened to report her to a supervisor, and hung up. Petitioner responded that MDHHS was rude, and her specialist abruptly hung up.

It was highly disputed whether MDHHS called Petitioner multiple times, whether Petitioner had a spam blocker on her phone, and/or who was rude to whom on August

8, 2023. Petitioner's attorney attempted to verify MDHHS's efforts to contact Petitioner by requesting telephone records under the Freedom of Information Act.¹ MDHHS responded it was unable to comply with the request because it cannot filter its reports to include only calls to a specific phone number. MDHHS inability to comply with Petitioner's attorney's request supports a conclusion that it failed to contact Petitioner. Other evidence was also not supportive for MDHHS.

Petitioner applied for FAP benefits on [REDACTED] 2023. MDHHS did not document any efforts to interview Petitioner until July 25, 2023. MDHHS did not even send Petitioner written notice of an appointment until the 30th day after application. Thus, if Petitioner missed her interview, she would already be too late to preserve her original application date. Policy suggests that clients are given some leeway on rescheduling missed appointments because notice of a missed interview must be sent advising the client to reschedule the interview before the 30th day after application. MDHHS not only failed to allow Respondent any time to reschedule an interview, MDHHS did not establish that a missed interview notice was sent to Petitioner.

MDHHS's credibility was also hampered by its efforts to interview Petitioner after the 30th day. Clients who complete the interview process within the 31st to 60th day after application are eligible for FAP benefits from the date of compliance. BAM 115 (January 2023) p. 24. Perhaps Petitioner hung-up on August 8, 2023, after being angry with MDHHS; MDHHS did not explain why Petitioner was not interviewed during a prehearing conference on August 24, 2023, which Petitioner attended. Petitioner testified, without rebuttal, that the supervisor conducting the conference refused to interview Petitioner. Petitioner additionally testified that the supervisor successfully called Petitioner's telephone during the conference which suggests she could be contacted via telephone.²

Petitioner further testified she went to the MDHHS office on August 9, 2023, and was told she could neither be interviewed nor speak with a supervisor. Petitioner's testimony was credible and not rebutted.

Given the evidence, MDHHS failed to establish reasonable efforts in contacting Petitioner for an application interview. Thus, MDHHS improperly denied Petitioner's application dated [REDACTED] 2023. As a remedy, Petitioner is entitled to a reprocessing of the application.

¹ 32 CFR § 701.25 - 5 U.S.C. 552, Freedom of Information Act.

² It is also possible that Petitioner tweaked her phone in August 2023 so that MDHHS's calls would not be blocked.

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] 2023; and
- (2) Process Petitioner's application subject to the finding that Petitioner did not fail to comply with interview requirements.

The actions taken by MDHHS are **REVERSED**.

CG/nr



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
Linda Gooden
Oakland County Southfield District III
25620 W. 8 Mile Rd
Southfield, MI 48033
MDHHS-Oakland-6303-
Hearings@michigan.gov

Interested Parties
Oakland 3 County DHHS
BSC4
M. Holden
N. Denson-Sogbaka
B. Cabanaw
MOAHR

Via-First Class Mail :

Petitioner

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Counsel for Petitioner

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