



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
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Date Mailed: March 31, 2023
MOAHR Docket No.: 23-000841
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 March 22, 2023, from Lansing, Michigan. [REDACTED] the Petitioner, appeared on her own behalf. The Department of Health and Human Services (Department) was represented by Elizabeth Trompen, Family Independence Manager (FIM) and Sarah Wildman, Eligibility Specialist (ES). Interpreter #9232 from Linguistica provided interpretation services during the hearing.

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-13.

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 September 2022.
2. On August 4, 2022, a Redetermination form was mailed to Petitioner with a due date of August 24, 2022. This form also stated that benefits would end if the form was not submitted. (Exhibit A, p. 7)
3. On August 23, 2022, Petitioner submitted a completed Redetermination form. (Exhibit A, pp. 7-11)

4. An interview for the Redetermination was scheduled for September 1, 2022 in the morning. (Exhibit A, p. 12; Petitioner Testimony)
5. Petitioner called the Department a few days prior to the scheduled interview requesting the interview be rescheduled to after her work hours. Petitioner understood that a new appointment was scheduled for 3:00 pm on a different day. (Petitioner Testimony)
6. On September 1, 2022, the ES attempted to contact Petitioner for a telephone interview. (Exhibit A, p. 12)
7. Petitioner called the ES back, who indicated the rescheduled appointment did not get put on the system. (Petitioner Testimony)
8. Petitioner spoke with the ES on the day of the rescheduled interview and believed the interview was completed and the Department would send something by mail if anything else was needed. (Petitioner Testimony)
9. A Notice of Missed Appointment was not issued to Petitioner. (Exhibit A, p. 2; ES Testimony)
10. Petitioner's FAP case closed at the end of the certification period, effective October 1, 2022, because the Redetermination interview was not completed for ongoing eligibility to be determined. (Exhibit A, p. 2; ES Testimony)
11. On February 9, 2023, Petitioner submitted a hearing request contesting the Department's determination. (Exhibit A, pp. 4-6)
12. A February 21, 2023 case comment documented that the interview was marked as completed by the worker but the FAP redetermination was not processed, she was unsure what happened, and no FAP closure letter was issued to Petitioner. (Exhibit A, p. 12)

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, 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.

However, if the client misses the interview, Bridges sends a DHS-254, Notice of Missed Interview. BAM 210 p. 6. This notice would explain that an interview is required to apply for or redetermine FAP benefits and it was now Petitioner's responsibility to contact the ES to reschedule the interview before a specific date or the application/redetermination would be denied. DHS-254, Notice of Missed Interview.

In this case, Petitioner timely filed the completed Redetermination form on August 23, 2022. (Exhibit A, pp. 7-11). It was uncontested that an interview for the Redetermination was scheduled for September 1, 2022. On September 1, 2022, the ES attempted to contact Petitioner for a telephone interview. (Exhibit A, p. 12). The Department asserted that Petitioner missed the interview, therefore her FAP case had to close. The Department acknowledges that a Notice of Missed Appointment was not issued to Petitioner. (Exhibit A, p. 2; ES Testimony).

However Petitioner credibly testified that the interview was completed. Petitioner called the Department a few days prior to the scheduled September 1, 2022 interview requesting the interview be rescheduled to after her work hours. Petitioner understood that a new appointment was scheduled for 3:00 pm on a different day. (Petitioner Testimony) When she received the message on September 1, 2022, Petitioner called the ES back, who indicated the rescheduled appointment did not get put on the system. (Petitioner Testimony). Petitioner spoke with the ES on the day of the rescheduled interview and believed the interview was completed and the Department would send something by mail if anything else was needed. (Petitioner Testimony).

Petitioner's testimony is supported by the February 21, 2023 case comment documenting that the interview was marked as completed by the worker but the FAP redetermination was not processed, she was unsure what happened, and no FAP closure letter was issued to Petitioner. (Exhibit A, p. 12).

Accordingly, the closure of Petitioner's FAP case cannot be upheld. If Petitioner had missed the interview, the Department did not follow the proper process because the Notice of Missed Appointment was not issued to Petitioner. (Exhibit A, p. 2; ES

Testimony). Further, Petitioner provided detailed, credible testimony that the interview was rescheduled and completed. (Exhibit A, p. 12; Petitioner Testimony)

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Petitioner's FAP case.

DECISION AND ORDER

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

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Redetermine Petitioner's eligibility for FAP effective October 1, 2022 in accordance with Department policy and issue written notice of the determination.

CL/ml



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
Kent County DHHS
121 Franklin SE
Grand Rapids, MI 49507
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Interested Parties
BSC3
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Via First Class Mail :

Petitioner
[REDACTED]
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