



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: March 24, 2023
MOAHR Docket No.: 23-000850
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun

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 16, 2023, from Detroit, Michigan. Petitioner did not appear for the hearing. Petitioner was represented by her Authorized Hearing Representative (AHR), [REDACTED]. The Department of Health and Human Services (Department) was represented by Valarie Foley, Hearing Facilitator.

ISSUE

Did the Department properly deny 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 or around [REDACTED] 2023, Petitioner submitted an application for FAP benefits. On the application, Petitioner identified [REDACTED] as her Authorized Representative (AR). (Exhibit A, pp. 8-14)
2. On or around January 18, 2023, the Department sent Petitioner an Appointment Notice, informing her that she was scheduled to have an application interview appointment on January 23, 2023, at 10:30 AM. The Department did not send the Appointment Notice to Petitioner's AR. (Exhibit A, p. 15)

3. The Department attempted to contact Petitioner for the interview on January 23, 2023, but received no response. The Department did not contact Petitioner's AR to conduct the application interview.
4. On or around January 23, 2023, the Department sent Petitioner a Notice of Missed Appointment, instructing her to contact the Department by February 2, 2023, to reschedule the interview, otherwise, her FAP application would be denied. (Exhibit A, p. 17)
5. On or around February 2, 2023, the Department sent Petitioner an Application Notice, denying her FAP application because she failed to meet the interview requirements. (Exhibit A, pp. 18-21)
6. On or around February 13, 2023, Petitioner's Legal Guardian/AHR requested a hearing on Petitioner's behalf disputing the denial of the FAP application.

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.

In this case, the Department asserted that it denied Petitioner's FAP application because she failed to participate in an application interview. For FAP cases, the Department is to conduct an interview at application FAP before approving benefits. BAM 115 (January 2023), p. 17-19. The Department is to schedule the interview promptly, in order to meet the standard of promptness. The person interviewed may be any responsible group member, or AR. For FAP cases, the interview must be held by the 20th day after the application date to allow the client at least 10 days to provide the verifications by the 30th day. BAM 115, p. 22-24. Applicants are required to participate in the FAP interview process. If a client misses an interview appointment, the Department will send a DHS-254, Notice of Missed Interview, advising the client that it is now the client's responsibility to request another interview date. It sends a notice only after the first missed interview. If the client calls to reschedule, the Department will set the interview prior to the 30th day, if possible. If the client fails to reschedule or misses the rescheduled interview, the Department will deny the application on the 30th day. BAM 115, pp.18-24. If the client completes the application process after denial but within 60 days of the application date, the Department is to follow the subsequent processing

policy outlined in BAM 115, and issue FAP benefits to Petitioner if determined eligible. BAM 115, pp. 25-26.

At the hearing, the Department testified that the case worker assigned to Petitioner's case attempted to contact Petitioner for the scheduled interview, but Petitioner did not answer. The Department representative testified that additional attempts were made to contact Petitioner, and subsequently, the Notice of Missed Appointment and the Application Notice were issued as the interview was not completed. The Department representative conceded that the Department did not call the correct phone number however and should have contacted Petitioner's AR to conduct the interview. The Department confirmed that after receiving the Notice of Missed Appointment, Petitioner's AR contacted the Department and left a message to have the interview rescheduled. The Department representative acknowledged that the Department did not add Petitioner's AR to her case and did not contact or communicate any information to the AR as required. An AR is a person who submits an application provides eligibility information on behalf of a client. Also, in FAP, an AR is able to access Food assistance benefits on behalf of the client. BPG (January 2022), p.7.

The evidence established that Petitioner's AR contacted the Department in an attempt to participate in or have Petitioner's application interview rescheduled prior to the deadline identified on the Notice of Missed Appointment. Additionally, the Department was aware that Petitioner identified an AR and should have conducted the interview with the AR. Therefore, 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 did not act in accordance with Department policy when it denied Petitioner's [REDACTED] 2023, FAP application.

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. Register and reprocess Petitioner's [REDACTED] 2023, FAP application to determine her eligibility for FAP benefits from the application date, ongoing;
2. Issue FAP supplements to Petitioner for any benefits she was eligible to receive but did not from the application date, ongoing; and

3. Notify Petitioner and her AHR in writing of its decision.

ZB/ml



Zainab A. Baydoun
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
Susan Noel
Wayne-Inkster-DHHS
26355 Michigan Ave
Inkster, MI 48141
**MDHHS-Wayne-19-
Hearings@michigan.gov**

Interested Parties

BSC4
M Holden
D Sweeney
MOAHR

Via First Class Mail :

Authorized Hearing Rep.

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Petitioner

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