



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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Date Mailed: July 7, 2023  
MOAHR Docket No.: 23-003092  
Agency No.: ██████████  
Petitioner: ██████████

**ADMINISTRATIVE LAW JUDGE: Linda Jordan**

### **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 on June 29, 2023 via teleconference. Petitioner appeared and represented herself. Raven Douthard, Hearings Facilitator, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department).

### **ISSUE**

Did MDHHS 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 April 3, 2023, Petitioner applied for FAP benefits.
2. On April 28, 2023, MDHHS sent Petitioner an Appointment Notice, which indicated that she had a telephone appointment scheduled for May 1, 2023 (Exhibit A, p. 9).
3. On May 1, 2023, MDHHS sent Petitioner a Notice of Missed Appointment indicating that she missed her scheduled appointment, and that it was now her responsibility to contact MDHHS by May 3, 2023 (Exhibit A, p. 10).
4. On May 3, 2023, MDHHS sent Petitioner a Notice of Case Action indicating that her application for FAP was denied for failure to complete the interview requirement (Exhibit A, pp. 5-6).

5. On June 1, 2023, Petitioner requested a hearing to dispute the denial of her application for FAP benefits (Exhibit A, p. 3).

### **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. MDHHS 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, MDHHS denied Petitioner's request for FAP because it alleged that she failed to complete the interview requirement.

MDHHS is required to conduct an interview to explain the program requirements and to gather information necessary for determining the applicant's eligibility. BAM 115 (October 2022), pp. 17-18. MDHHS must conduct a telephone interview prior to approving FAP benefits. BAM 115, p. 20. The interview must be held by the 20th day after the application date in order to allow the client at least ten days to provide requested verifications by the 30th day. BAM 115, p. 24. If a client misses an interview appointment, MDHHS must send a Notice of Missed Interview advising the client that it is their responsibility to request another interview date. BAM 115, p. 24. MDHHS only sends a Notice of Missed Interview after the first missed interview. *Id.* MDHHS may not deny the application for failure to complete the scheduled interview until the 30th day after the application, even if the client has returned all verifications. BAM 115, pp. 18-19

At the hearing, Petitioner credibly testified that she did not receive the Notice of Appointment prior to the May 1st scheduled appointment, and as soon as she received the paperwork, she attempted to contact MDHHS. The record shows that MDHHS erred in sending the Notice of Appointment in an untimely manner. Pursuant to policy, the interview must be held by the 20th day after the application is filed. BAM 115, p. 24. MDHHS did not send the Notice of Appointment until April 28, 2023, which was more than 20 days after Petitioner filed the application. Additionally, the Notice of Appointment sent on April 28, 2023 informed Petitioner of an appointment on May 1, 2023, a mere three days later. It is unlikely that this notice would have reached Petitioner in time to provide adequate notice, given the short timeframe. Petitioner testified that she did not receive the notice prior to the scheduled appointment and that she attempted to comply with MDHHS' interview request but was unable to reach anyone at MDHHS to conduct the interview.

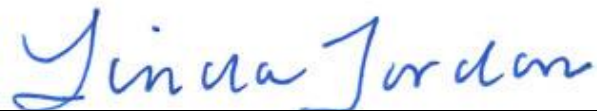
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that MDHHS did not act in accordance with Department policy when it denied Petitioner's FAP application for failure to complete the interview requirement.

**DECISION AND ORDER**

Accordingly, MDHHS' decision is **REVERSED**.

MDHHS 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. Reregister Petitioner's April 3, 2023 application for FAP;
2. Redetermine Petitioner's eligibility for FAP, from April 3, 2023 ongoing;
3. Issue supplements to Petitioner for any FAP benefits that she was eligible to receive but did not, from April 3, 2023 ongoing; and
4. Notify Petitioner of its decision in writing.



**Linda Jordan**  
Administrative Law Judge

LJ/tm

**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**  
Jeanenne Broadnax  
Wayne-Taylor-DHHS  
25637 Ecorse Rd.  
Taylor, MI 48180  
**MDHHS-Wayne-18-  
Hearings@michigan.gov**

**Interested Parties**

M. Holden  
D. Sweeney  
BSC4

**Via-First Class Mail :**

**Petitioner**

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