



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

Date Mailed: September 7, 2023

MOAHR Docket No.: 23-004585

Agency No.: [REDACTED]

Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Ellen McLemore**

### **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 September 5, 2023, via conference line. Petitioner was present and was unrepresented. The Department of Health and Human Services (Department) was represented by Valarie Foley, Hearing Facilitator.

### **ISSUE**

Did the Department properly deny Petitioner's Food Assistance Program (FAP) application?

### **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 June 30, 2023, Petitioner submitted an application for FAP benefits.
2. On July 31, 2023, the Department sent Petitioner a Notice of Case Action notifying Petitioner that her application was denied.
3. On August 4, 2023, Petitioner submitted a request for hearing disputing the Department's actions.

## **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, Petitioner submitted an application for FAP benefits. The Department testified that Petitioner was contacted for her FAP interview on July 28, 2023, but she refused to complete the interview. As a result, the Department denied Petitioner's application.

During the processing of a FAP application, the Department will conduct a telephone interview before approving benefits. BAM 115 (October 2019), p. 1. For FAP, the interview must be held by the 20<sup>th</sup> day after the application date to allow the client at least 10 days to provide verifications by the 30<sup>th</sup> day. BAM 115, p. 24. If a client misses their interview appointment, the Department will send a Notice of Missed Interview, advising them that it is the client's responsibility to request another interview date. BAM 115, p. 24. If the client calls to reschedule, the Department will set the interview prior to the 30<sup>th</sup> day, if possible. BAM 115, p. 24. If the client fails to reschedule or misses the rescheduled interview, the Department will deny the application on the 30<sup>th</sup> day. BAM 115, p. 24.

At the hearing, Petitioner denied that she refused to participate in the hearing. Petitioner stated that she was informed on July 28, 2023, that her interview was scheduled on August 2, 2023. Petitioner stated she was not contacted for an interview.

At the hearing, the individual that participated on the Department's behalf did not have firsthand knowledge of the discussion that occurred on July 28, 2023. Therefore, the Department failed to present sufficient evidence that Petitioner refused to complete her FAP interview. Thus, the Department failed to establish that it acted in accordance with Department policy when it denied Petitioner's FAP application.

**DECISION AND ORDER**

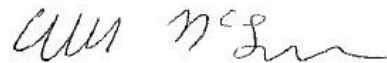
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Petitioner's FAP application.

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. Reinstate and reprocess Petitioner's June 30, 2023 FAP application;
2. If Petitioner is eligible for FAP benefits, issue supplements she is entitled to receive; and
3. Notify Petitioner of its decision in writing.

EM/tm



---

**Ellen McLemore**  
Administrative Law Judge

