



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 27, 2023
MOAHR Docket No.: 23-005064
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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 September 20, 2023. Petitioner appeared and represented herself. Brad Reno, 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 [REDACTED] [REDACTED] 2023, Petitioner applied for FAP benefits (Exhibit A, p. 7).
2. On June 16, 2023, MDHHS sent Petitioner a Specialist Assignment Note indicating that her FAP case was transferred to an MDHHS office in Flint, Michigan (Exhibit A, p. 14).
3. On June 16, 2023, MDHHS sent Petitioner an Appointment Notice indicating that she had a telephone appointment with MDHHS on June 26, 2023, between 8:00 AM and 10 AM (Exhibit A, p. 15).

4. On June 26, 2023, MDHHS sent Petitioner a Notice of Missed Appointment indicating that Petitioner missed the telephone appointment and that it was now her responsibility to contact MDHHS to reschedule, on or before July 16, 2023 (Exhibit A, p. 16).
5. On July 21, 2023, Petitioner called MDHHS in an attempt to complete the interview (Exhibit A, p. 17). The specialist who answered the phone created a task in MDHHS' internal system but did not complete the interview at that time.
6. On July 21, 2023, MDHHS sent Petitioner a Notice of Case Action indicating that her FAP application was denied for failure to verify certain information (Exhibit A, pp. 18-20).
7. On August 9, 2023, Petitioner requested a hearing to dispute the denial of her FAP benefits (Exhibit A, p. 5).

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 FAP application and Petitioner disputed the denial. Although the Notice of Case Action indicated that Petitioner's application was denied for failure to verify certain information, MDHHS clarified at the hearing that it was denied for failure to complete the telephone interview.

MDHHS is required to conduct an interview to explain the program requirements and to gather information necessary for determining an applicant's eligibility. BAM 115 (January 2023), 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.

If the client calls MDHHS to reschedule the interview, MDHHS should set the interview prior to the 30th day, if possible. BAM 115, p. 23. If the client fails to reschedule or misses the rescheduled interview, MDHHS denies the application on the 30th day. *Id.* If there is a failure to hold the interview by the 20th day or interview rescheduling causes the application to be pending on the 30th day, MDHHS follows subsequent processing rules. *Id.* Subsequent processing rules apply when a client completes the application process after denial but within 60 days after the application date. BAM 115, p. 24. If the application is completed on or before the 30th day, MDHHS must re-register the application using the original application date. *Id.* If the client is eligible, MDHHS must determine whether to prorate benefits pursuant to policy. *Id.* If the client completes the application between the 31st and 60th days, MDHHS must re-register the application using the date that the client completed the process. *Id.* If the client is eligible, MDHHS prorates the benefits from the date that the client complied. *Id.*

Here, MDHHS alleged that Petitioner failed to complete the interview process during the scheduled interview time. However, it acknowledged that the MDHHS specialist could have completed the interview when Petitioner contacted MDHHS on July 21, 2023. Instead, the specialist created a task for another specialist to complete the interview at a later time. MDHHS testified that it was unaware why the specialist who Petitioner contacted did not complete the interview and process the application pursuant to subsequent processing rules during the July 21, 2023, phone conversation. Petitioner credibly testified that when she missed a call from MDHHS, she immediately called back, but was unable to reach anyone. She tried to contact MDHHS at a later time and was told to wait by the phone and someone would call her that day. She did not receive a call. She was finally able to reach a representative on July 21, 2023.

The evidence shows that Petitioner attempted to contact a representative at MDHHS after her missed interview. Additionally, she contacted MDHHS on July 21, 2023, and spoke with a representative who could have completed the eligibility interview with her at that time. Given that Petitioner made contact with MDHHS within the subsequent processing window, MDHHS should have processed Petitioner's application pursuant to subsequent processing rules. Additionally, based on Petitioner's credible testimony, she attempted to reach MDHHS on her original interview date, but was unable to connect with anyone. Given that she tried to complete the interview on the scheduled interview date but could not do so due to circumstances beyond her control, MDHHS should reregister the initial FAP application and determine her eligibility for FAP from the date of application ongoing.

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.

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 [REDACTED] [REDACTED] 2023, FAP application.
2. Redetermine Petitioner's eligibility for FAP from June 15, 2023, ongoing.
3. If Petitioner is eligible for FAP benefits, issue supplements to Petitioner for any benefits that she was eligible to receive, but did not, from June 15, 2023, ongoing; and
4. Notify Petitioner in writing of its decision.



LJ/nr

Linda Jordan
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

Janice Collins
Genesee County DHHS Union St
District Office
125 E. Union St 7th Floor
Flint, MI 48502

**MDHHS-Genesee-UnionSt-
Hearings@michigan.gov**

Interested Parties

Genesee (Union St) County DHHS
BSC2
M. Holden
D. Sweeney
MOAHR

Via-First Class Mail :

Petitioner

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