



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: December 21, 2023  
MOAHR Docket No.: 23-006799  
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 December 12, 2023, via teleconference. Petitioner appeared with the assistance of an interpreter. Tabatha McFarland, Eligibility Specialist, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department). MDHHS' Hearing Packet was admitted as MDHHS Exhibit A at the hearing.

### **ISSUE**

Did MDHHS properly terminate Petitioner's 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. Petitioner was an ongoing recipient of FAP benefits.
2. On August 4, 2023, MDHHS sent Petitioner a FAP Redetermination, which indicated that benefits would end if she did not complete the form and submit it to MDHHS by August 24, 2023 (Exhibit A, p. 20).
3. On September 14, 2023, MDHHS sent Petitioner a Notice of Missed Appointment, stating that Petitioner recently missed an appointment and that it was now her responsibility to contact MDHHS to reschedule by September 30, 2023 (Exhibit A, p. 28).

4. On September 15, 2023, MDHHS sent Petitioner an Appointment Notice, informing Petitioner that she had an appointment with MDHHS on September 22, 2023 from 11:00 AM – 1:00 PM, and that an MDHHS specialist would call her at that time (Exhibit A, p. 27).
5. On October 3, 2023, MDHHS sent Petitioner a Notice of Case Action, indicating that her FAP case was closed, effective October 1, 2023 ongoing, for failure to complete the interview requirement (Exhibit A, pp. 5-6).
6. On October 8, 2023, Petitioner requested a hearing to dispute the closure of her FAP benefits (Exhibit A, pp. 3-5).

### **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, Petitioner requested a hearing to challenge the termination of her FAP benefits. MDHHS alleged that Petitioner's FAP benefits were terminated and her case was close because she failed to complete the interview requirement at redetermination.

MDHHS must periodically redetermine or renew an individual's eligibility for active programs. BAM 210 (October 2022), p. 1. The redetermination/renewal process includes a thorough review of all eligibility factors. *Id.* For most programs, a complete redetermination or renewal is required every 12 months. *Id.*, p. 3. For FAP, benefits stop at the end of the benefit period unless a redetermination is completed, and a new benefit period is certified. *Id.* If the client does not begin the redetermination process, MDHHS allows the benefit period to expire. *Id.* Late redeterminations are processed according to subsequent process rules. *Id.*, pp. 22-23.

For FAP, an interview is required before denying a redetermination even if it is clear that the group is ineligible. BAM 210, p. 5. MDHHS conducts the eligibility interview after receiving a completed redetermination/renew packet from the client. *Id.*, p. 14. FAP groups that have no earned income and in which all adult members are elderly or disabled do not require an interview at redetermination, unless the group requests an interview or if there are any outstanding issues or questions about the recertification process. *Id.*, p. 5. The individual interviewed may be the client, the client's spouse, any other responsible

member of the group or the client's authorized representative. *Id.*, p. 6. If the client misses the interview, MDHHS sends a DHS-254, Notice of Missed Interview. *Id.* The FAP 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 a scheduled interview, or submit verifications timely. *Id.*, p. 21.

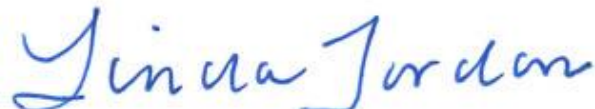
Here, MDHHS received Petitioner's redetermination packet, but alleged that she did not complete the interview requirement. MDHHS testified that Petitioner had an interview scheduled for September 14, 2023, but she failed to attend the appointment. MDHHS further testified that she had another appointment scheduled for September 22, 2023, which she failed to participate in as well. Petitioner disputed MDHHS' contentions and credibly testified that she was attempting to contact MDHHS to complete the interview requirement but had difficulty reaching a representative. She further testified that she eventually was able to reach a representative on the phone and completed the interview with the assistance of an interpreter.

Based on Petitioner's credible testimony, the record shows that Petitioner completed or took reasonable efforts to complete the interview requirement with MDHHS. 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 terminated Petitioner's FAP benefits.

### **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. Reinstate Petitioner's FAP case and redetermine her eligibility for FAP benefits, effective October 1, 2023 ongoing;
2. Issue supplemental payments to Petitioner for any FAP benefits that she was eligible to receive, but did not, from October 1, 2023 ongoing; and
3. Notify Petitioner of its decision in writing.



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**Linda Jordan**  
Administrative Law Judge

LJ/

**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**  
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**Interested Parties**  
M. Holden  
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BSC4

**Via-First Class Mail :**

**Petitioner**  
[REDACTED]  
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[REDACTED], MI [REDACTED]