



STATE OF MICHIGAN

GRETCHEN WHITMER
GOVERNOR

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
SUZANNE SONNEBORN
EXECUTIVE DIRECTOR

MARLON I. BROWN, DPA
ACTING DIRECTOR



Date Mailed: February 12, 2024
MOAHR Docket No.: 24-000059
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Caralyce M. Lassner

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 by telephone on February 7, 2024. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Valarie Foley, Hearings Facilitator.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefits for failing to complete the redetermination interview?

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 October 4, 2023, the Department sent Petitioner a redetermination packet which was due on November 3, 2023. (Exhibit A, pp. 4 – 11).
3. The redetermination packet includes a redetermination interview date and time at the bottom of the first page. (Exhibit A, p. 4).
4. On November 3, 2023, the Department issued a missed appointment notice to Petitioner and instructed Petitioner to call her specialist to reschedule her appointment. (Exhibit A, p. 12).

5. On November 14, 2023, Petitioner returned the completed redetermination application to the Department. (Exhibit A, pp. 4 – 11).
6. On November 30, 2023, the Department issued a Notice of Case Action (NOCA) to Petitioner, closing Petitioner's FAP case effective December 1, 2023, for failure to complete the redetermination interview. (Exhibit A, pp. 13 – 14).
7. On January 10, 2024, the Department received a request for hearing from Petitioner regarding closure of her FAP case. (Exhibit A, pp. 1, 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. 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.

Petitioner requested a hearing to dispute the closure of her FAP case. The Department explained that Petitioner's FAP case closed because Petitioner had failed to complete the redetermination process, specifically the redetermination interview.

A completed redetermination is required at least annually in FAP cases unless a 24-month benefit period is assigned or unless the FAP group is composed of individuals with no earned income and all adult members are elderly or disabled. BAM 210 (October 2023), pp. 3, 5. For FAP cases, benefits stop at the end of the benefit period unless a redetermination is completed, and a new benefit period is certified. BAM 210, p. 3.

Redetermination consists of at least two steps: a) completion of the redetermination application, and b) an interview. BAM 210, pp. 3, 5, 21. If a client misses the scheduled redetermination interview, a notice of missed appointment must be sent to the client. BAM 210, p. 6. In order to receive uninterrupted benefits (benefits available on his/her scheduled issuance date), the client must file the redetermination by the fifteenth of the redetermination month. BAM 210, p. 16. Any FAP redetermination form **not** submitted timely (see above) has the same processing timeframe as an initial application (30 days from the date the redetermination was filed). BAM 210, p. 17. The FAP redetermination must be completed by the end of the current benefit period so that

the client can receive uninterrupted benefits by the normal issuance date. BAM 210, p. 20.

In this case, Petitioner was due for a redetermination of benefits before December 1, 2023. A redetermination packet was mailed to Petitioner on October 4, 2023 and was due to be returned to the Department by November 3, 2023. (Exhibit A, p. 4). Petitioner's redetermination interview was scheduled for November 3, 2023 at 8:30 am and stated in Petitioner's redetermination packet at the bottom of the first page of the packet. (Exhibit A, p. 4). Petitioner received and returned her redetermination application to the Department on November 14, 2023. The Department testified that because the Department had not received a completed redetermination application by the November 3, 2023 deadline, it did not attempt to call Petitioner for her redetermination interview and issued a missed appointment notice to Petitioner that day.

Petitioner acknowledges that she received the redetermination packet late because she is experiencing homelessness and was delayed in retrieving the packet from her mailing address. However, Petitioner further testified that once she retrieved the packet, she completed it immediately and returned it in person to the Department but could not recall the exact date. The Department recorded the receipt of the application as November 14, 2023, and Petitioner agreed that that date sounded accurate. (Exhibit A, p. 4).

Petitioner testified that at the time she returned the packet to the Department in person, she also requested to reschedule her redetermination interview and was told someone would call her to reschedule. The Department testified that Department workers at the front desk in the office do not typically enter case notes and was therefore unable to confirm or deny that Petitioner requested to reschedule her redetermination interview that day.

Petitioner further testified that no one contacted her to reschedule her interview and the Department confirmed that it had no record of anyone from the Department attempting to contact Petitioner to reschedule her interview. The parties confirmed that the Department has Petitioner's current telephone number. Petitioner testified that she tried to contact her case worker directly again on or about December 6, 2023 regarding her missed interview and left her worker a voicemail message. She did not report having received a call back from her worker as of the date of the hearing.

The Notice of Missed Appointment notified Petitioner that "it is now your responsibility to reschedule the interview . . . before 11/30/2023 or your application/redetermination will be denied." While Petitioner had a responsibility to complete the redetermination phone interview if she wanted her benefits to continue, Petitioner credibly testified that she requested to reschedule her missed redetermination interview on November 14, 2023, which was before the NOCA was issued or the effective date of her FAP closure. Petitioner was not given a new date and time on November 14, 2023 and instead was told that the Department would call her to reschedule. Petitioner did not receive a call

and the Department did not have any record of anyone attempting to contact Petitioner to reschedule her interview.

Petitioner was able and willing to participate in the redetermination interview. The Department did not attempt to reschedule her redetermination interview as required by policy.

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 failed to contact Petitioner to reschedule her redetermination interview when she requested to do so before expiration of her certification period.

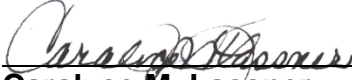
DECISION AND ORDER

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. Reschedule Petitioner's redetermination interview;
2. Redetermine Petitioner's eligibility for FAP benefits effective December 1, 2023 ongoing;
3. If Petitioner is eligible for any supplemental FAP benefits, issue supplemental payments to Petitioner for any FAP benefits she was eligible to receive but did not, from December 1, 2023 ongoing; and
4. Notify Petitioner of its decision in writing.

CML/ml



Caralyce M. Lassner
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
B Cabanaw
N Denson-Sogbaka

Via First Class Mail:

Petitioner
[REDACTED]
MI [REDACTED]