



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
DIRECTOR



Date Mailed: February 29, 2024
MOAHR Docket No.: 24-000500
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 20, 2024. Petitioner appeared and represented himself. The Department of Health and Human Services (Department) was represented by Rebecca Scott, Eligibility Specialist.

ISSUE

Did the Department properly deny Petitioner's Food Assistance Program (FAP) application for benefits for failing to complete the initial 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. On [REDACTED] 2023, Petitioner submitted an application for FAP benefits to the Department. As part of that application, Petitioner provided an accurate and current telephone number.
2. The Department scheduled Petitioner's initial interview for December 14, 2023, at 2:00 pm.
3. The interview was not completed.
4. On January 4, 2024, the Department issued a Notice of Case Action (NOCA) to Petitioner denying his application for FAP benefits based on failure to complete the interview requirement. (Exhibit A, pp. 8 – 9).

5. On January 8, 2024, Petitioner made a verbal request for hearing to the Department regarding denial of his FAP application. (Exhibit A, pp. 4 – 6).

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 denial of his application for FAP benefits. The Department explained that Petitioner's application was denied because Petitioner failed to complete the application process, specifically the initial interview.

For applications for FAP benefits, the Department must conduct a telephone interview before approving benefits. BAM 115 (January 2023) p. 20. The purpose of the interview is to explain program requirements and gather information to determine the group's eligibility. BAM 115, p. 17. Interviews must be scheduled promptly to meet standards of promptness. BAM 115, p. 22. In FAP cases, the interview must be held by the 20th day after the application date to allow the client at least ten (10) days to provide verifications by the 30th day. BAM 115, p. 22.

If a client misses an interview appointment, Department is to send a Notice of Missed Interview (DHS-254) advising a client that it is his or her responsibility to request another interview date. BAM 115, p. 23. If the client calls to reschedule, the interview should be held no later than the 30th day after application, if possible. BAM 115, p. 23.

In this case, Petitioner applied for FAP benefits on [REDACTED] 2023. Petitioner testified that he provided an accurate and current telephone number on his application. Petitioner provided his telephone number during the hearing and the Department confirmed that is the telephone number it had on file for the Petitioner. The Department testified that it scheduled an initial interview to take place with Petitioner on December 14, 2023, at 2:00 pm but that it did not have a record of notification being sent to Petitioner with the interview date and time. Notwithstanding the foregoing, the Department testified that it called Petitioner on December 14, 2023, for the interview but did not reach Petitioner. The Department testified that no Notice of Missed Interview was sent to Petitioner.

Despite not having received notice of the scheduled interview or notice of Missed Appointment, Petitioner credibly testified that he attempted to complete his initial interview several times. Specifically, Petitioner called the Department on December 19, 2023, regarding his application and/or interview and when the Department called back, the call dropped. Petitioner testified he called the Department back immediately but was unable to reach anyone at the Department. Petitioner then called the Department again on January 8, 2024, because he had not received a call back from his December 19, 2023 call. The Department did not have any record of anyone attempting to return Petitioner's call or to reschedule his interview.

Petitioner's actions established that he was able and willing to participate in the initial interview. The Department did not attempt to reschedule Petitioner's initial interview as required by policy. BAM 115, p. 23.

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 did not act in accordance with Department policy when it failed to notify Petitioner of his interview date and time, failed to send him a Notice of Missed Appointment, and failed contact Petitioner to reschedule his initial interview when he attempted to do so by calling the Department on December 19, 2023.

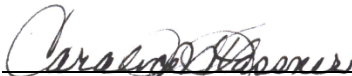
DECISION AND ORDER

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 initial interview;
2. Redetermine Petitioner's eligibility for FAP benefits effective December 5, 2023 ongoing;
3. If Petitioner is eligible for any supplemental FAP benefits, issue supplemental payments to Petitioner for any FAP benefits he was eligible to receive but did not, from December 5, 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
Tracy Felder
Wayne-Southwest-DHHS
2524 Clark Street
Detroit, MI 48209
MDHHS-Wayne-41-Hearings@michigan.gov

Interested Parties

BSC4
M Holden
B Cabanaw
N Denson-Sogbaka

Via First Class Mail:

Petitioner

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