



GRETCHEN WHITMER
GOVERNOR

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

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DIRECTOR

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

Date Mailed: March 8, 2024
MOAHR Docket No.: 24-000731
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 via telephone conference on February 28, 2024. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Valarie Foley, hearings coordinator.

ISSUES

The first issue is whether MDHHS properly denied Petitioner's application for Food Assistance Program (FAP) benefits.

The second issue is whether MDHHS properly denied MA benefits to Petitioner's daughter.

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 October 30, 2023, MDHHS approved Petitioner's two minor children for full MA benefits. Petitioner's daughter, [REDACTED] [REDACTED] (hereinafter, "Daughter") was denied MA benefits due to being an adult and not applying for herself.
2. On [REDACTED] [REDACTED] 2023, Petitioner applied for FAP and MA benefits and reported a household including Daughter.

3. On December 23, 2023, MDHHS mailed Petitioner an Appointment Notice informing Petitioner of a telephone interview scheduled for January 4, 2023 at 1:30 p.m.
4. On January 4, 2024, MDHHS failed to call Petitioner for a telephone interview.
5. On January 4, 2024, MDHHS mailed Petitioner a Notice of Missed Interview form warning Petitioner that it was her responsibility to reschedule an interview by January 17, 2024.
6. On January 5, 2024, Petitioner went to the local MDHHS office to be interviewed but MDHHS failed to interview Petitioner.
7. On January 17, 2024, MDHHS sent Petitioner a notice denying FAP benefits due to a failure to be interviewed.
8. On January 22, 2024, Petitioner requested a hearing to dispute the denial of FAP benefits and MA benefits for herself, Daughter, and two minor children.
9. On February 2, 2024, MDHHS approved Petitioner for MA benefits.
10. On February 28, 2024, during an administrative hearing, Petitioner withdrew her dispute over MA benefits for herself and her two minor children.

CONCLUSIONS OF LAW

The Food Assistance Program [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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing, in part, to dispute a denial of FAP benefits. Exhibit A, pp. 3-5. Petitioner applied for FAP benefits on December 18, 2023. A Notice of Case Action dated January 17, 2024, stated that FAP benefits were denied due to Petitioner's failure to complete interview requirements. Exhibit A, pp. 15-18.

For FAP benefits, MDHHS must conduct a telephone interview before approving benefits.¹ BAM 115 (January 2024) p. 20. Interviews must be scheduled promptly to meet standards of promptness. *Id.*, p. 23. If a client misses an interview appointment, MDHHS is to send a Notice of Missed Interview advising a client that it is his/her

¹ In some circumstances, an in-person interview must be conducted. BAM 115 (January 2024) p. 1. Such circumstances are not relevant to the present case.

responsibility to request another interview date. *Id.* If the client calls to reschedule, the interview should be held no later than the 30th day after application, if possible. *Id.* MDHHS is to not deny the application if the client has not participated in a scheduled initial interview until the 30th day after the application. *Id.*, p. 6 and 18.

MDHHS testified it sent Petitioner notice on December 23, 2023 informing Petitioner of an interview scheduled for January 4, 2024 at 1:30 p.m. MDHHS's Hearing Summary alleged Petitioner was called and did not answer. Exhibit A, p. 1. MDHHS contended that Petitioner's failure to answer justified the denial of FAP benefits.

Petitioner testified she was aware of the January 4, 2024, appointment, and testified that MDHHS did not call her. After not being called, Petitioner testified she went to the MDHHS office at 2:00 p.m. and was told to wait for a call that day; Petitioner testified MDHHS did not call. Petitioner additionally testified she returned to the MDHHS office on the following day. Petitioner testified she waited but did not speak to her caseworker. Instead, Petitioner testified that a MDHHS supervisor advised that Petitioner's specialist would call by the end of the day; Petitioner testified she again received no call from MDHHS.

MDHHS's statement was secondhand. Furthermore, if MDHHS had called Petitioner, MDHHS would be expected to document its efforts in comments associated with Petitioner's case; MDHHS testimony acknowledged that the person who allegedly called Petitioner failed to document the call. MDHHS did document a call to Petitioner on January 8, 2024 which Petitioner allegedly did not answer. MDHHS testimony additionally indicated that comments documented an interview appointment for January 11, 2024, though MDHHS could say if Petitioner was notified of the appointment.

Petitioner's testimony was detailed, credible and consistent with the evidence. Petitioner's written hearing request included consistent details which increased the Petitioner's credibility.

Given the evidence, MDHHS failed to call Petitioner on the scheduled interview date of January 4, 2024. MDHHS further failed to interview Petitioner after January 4, 2024 despite Petitioner's efforts. Accordingly, it is found that MDHHS improperly denied Petitioner's FAP application because of Petitioner's alleged failure to be interviewed.

The MA program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. MDHHS administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MA policies are contained in the BAM, BEM, and RFT.

Petitioner also requested a hearing to dispute a denial of MA benefits. Exhibit A, pp. 3-5. MDHHS testified that Petitioner applied on December 18, 2023, requesting MA benefits for herself, Daughter, and two minor children. During the hearing, Petitioner

acknowledged that MDHHS favorably resolved the disputes concerning MA benefits for herself and her two minor children.² Thus, the MA eligibility of Petitioner and her two minor children will be dismissed. Petitioner's only unresolved MA benefit dispute concerned Daughter. A Health Care Coverage Determination Notice dated October 30, 2023, stated that Daughter was denied benefits due to being an adult and not applying for herself.³ Exhibit A, pp. 6-10.

MDHHS did not present Petitioner's application dated [REDACTED] 2023. The evidence suggested that Petitioner completed the application and requested MA benefits for Daughter who was [REDACTED] years old.

There is no known policy, regulation, statute, or law that requires an adult to apply for his or her own MA benefits. During the hearing, MDHHS was unable to cite such a law or regulation to justify denying MA benefits to Daughter. The denial notice cited four policy chapters as support for the denial; two of the cited four policy chapters involved programs other than MA while the other two include no known reference to support denying MA benefits to an adult who does not apply for himself or herself. In fact, MDHHS policy allows for authorized representatives (ARs) to apply for benefits for someone else.

An MA application may be made on behalf of a client by their spouse, parent, legal guardian, adult child, stepchild, core relative or any other person provided the person is at least age 18 or married. BAM 110 (October 2023) p. 11. The application form must be signed by the client or the individual acting as their authorized representative. *Id.* Petitioner was Daughter's parent. As a parent, Petitioner was a proper AR and could apply for MA benefits for Daughter.

Given the evidence, Petitioner may be an AR who requests MA benefits for Daughter. Thus, MDHHS improperly denied the application requesting MA benefits for Daughter.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that Petitioner withdrew her dispute concerning MA benefits for herself and two minor children. Concerning MA benefits for Petitioner and two minor children, Petitioner's hearing request is **DISMISSED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly denied Petitioner's application for FAP benefits. Additionally, MDHHS improperly denied Daughter's MA benefits. It is ordered that MDHHS commence the following actions within 10 days of the date of mailing of this decision:

² Health Care Coverage Determination Notices dated October 30, 2023 and February 2, 2024 approved Petitioner and her two minor children for MA benefits. Exhibit A, pp. 6-10 and 19-21.

³ Because the notice was dated before the application, it can be presumed that Petitioner also applied for MA benefits for Daughter before December 2023.

- (1) Reregister and reprocess Petitioner's application requesting FAP benefits dated [REDACTED] [REDACTED] 2023, subject to the finding that Petitioner did not fail to comply with interview requirements;
- (2) Reregister and reprocess Petitioner's MA application dated [REDACTED] [REDACTED] 2023 concerning benefits for Daughter subject to the finding that MDHHS improperly denied benefits due to Daughter being an adult and not applying for benefits for herself; and
- (3) Issue benefit supplements and notice, if any, in accordance with policy.

The actions taken by MDHHS are **REVERSED**.

CG/nr



Christian Gardocki
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
Wayne 19 County DHHS
BSC4
M. Holden
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B. Cabanaw
M. Schaefer
EQAD
MOAHR

Via-First Class Mail :

Petitioner

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