



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

[REDACTED]  
MI [REDACTED]

Date Mailed: May 13, 2024  
MOAHR Docket No.: 24-003910  
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 May 9, 2024. Petitioner appeared and represented himself with the assistance of his niece, [REDACTED] [REDACTED] who translated for Petitioner, whose primary language is Bengali. The Department of Health and Human Services (Department) was represented by Dania Ajami, Lead Eligibility Specialist.

### **ISSUE**

Did the Department 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 December 24, 2023, Petitioner immigrated to the United States (US) with his spouse and two minor children (Children) from Bangladesh and were admitted as permanent residents. (Exhibit A, pp. 8 – 9).

2. On [REDACTED] 2024<sup>1</sup>, Petitioner submitted an electronic application to the Department for FAP assistance for Children. (Exhibit A, pp. 7 – 14).
3. On March 11, 2024, the Department sent Petitioner an appointment notice, scheduling an interview for Petitioner for March 18, 2024. (Exhibit A, p. 15).
4. On March 11, 2024, the Department sent Petitioner a Verification Checklist (VCL), requesting several documents.
5. On March 18, 2024, the Department sent Petitioner a Notice of Missed Appointment and directing Petitioner to call the Department before April 3, 2024 to reschedule. (Exhibit A, p. 16).
6. On March 20, 2024, Petitioner provided the Department with a bank statement and rent receipt.
7. On March 25, 2024, Petitioner called the Department to reschedule his missed interview. The Department told Petitioner a new appointment notice would be sent to him by mail. (Exhibit A, p. 17, Line 4).
8. On April 2, 2024, the Department sent Petitioner a Notice of Case Action (NOCA), denying Petitioner's FAP application due to failure to provide requested verifications. (Exhibit A, pp. 18 – 22).
9. On April 2, 2024, the Department sent Petitioner a second VCL.
10. On April 4, 2024, the Department received a request for hearing form from Petitioner that stated, "please make an appointment for my food benefit." (Exhibit A, pp. 3 – 4).

### **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

---

<sup>1</sup> Petitioner's application was submitted on Saturday, [REDACTED] 2024. Applications and other documents submitted to the Department outside of regular business hours and on holidays are deemed to be received on the next business day. BAM 110 (October 2023), p. 6.

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, specifically requesting that an appointment be scheduled regarding his FAP application. The Department denied Petitioner's FAP application for failure to provide requested verifications.

When it receives an application for assistance, the Department is required to obtain verification of information as required by policy or when information is unclear or incomplete. BAM 130 (October 2023), p. 1; BEM 500 (April 2022), pp. 13 – 14; BEM 505 (October 2023), p. 14. To obtain verification, the Department must tell the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. The client must obtain the requested verification, but the local office must assist the client if they need and request help. BAM 130, p. 3. Verifications may include client statements, electronic verification from a reliable source, such as Equifax/Work Number, or a consolidated inquiry. BEM 500, p. 15. Non-citizen information must be verified. BAM 130, p. 3.

The Department allows the client ten calendar days to provide the requested verification and verifications are considered timely if received by the date that they are due. BAM 130, p. 7. For FAP, if verifications are not received, the Department sends a negative action notice when a) the client indicates a refusal to provide the requested verification, or b) the time period given on the VCL has lapsed and the client has **not** made a reasonable effort to provide it. BAM 130, p. 7 (emphasis in original).

In this case, Petitioner applied for FAP benefits for Children on [REDACTED] 2024. (Exhibit A, pp. 7 – 8). On April 2, 2024, the Department sent Petitioner a NOCA denying Petitioner's FAP application as to Petitioner, his spouse, and Children for failure to return requested verifications. (Exhibit A, pp. 18 – 22). The Department testified that it sent a VCL to Petitioner on March 11, 2024, requesting verification of Petitioner's income, proof of identification, and alien status. (See also Exhibit A, p. 17, Line 2). The Department did not state whose identification and alien status it requested. The Department also testified that it received a bank statement and a rent receipt from Petitioner on March 20, 2024. The Department testified that a second VCL was sent to Petitioner on April 2, 2024, requesting only the alien status for each member of the household.

Based on Petitioner having provided documents to the Department in response to its first VCL and contacting the Department by telephone on March 25, 2024<sup>2</sup> (Exhibit A, p. 17, Line 4), Petitioner demonstrated that he made a reasonable effort to cooperate with the Department and comply with its requests. Therefore, while non-citizen information

---

<sup>2</sup> During the hearing, Petitioner denied that he called the Department on that date. However, given the specificity of the Department's case comment regarding the call, including Petitioner's phone number, and Petitioner's other actions and testimony regarding his attempts to cooperate with the Department, the undersigned attributes Petitioner's denial to a failure in translation, a lack of understanding the question asked, or a failure to recall.

had to be verified, the Department did not act in accordance with Department policy when it denied Petitioner's FAP application for failure to provide the alien status for each member of the household when Petitioner had made a reasonable effort to comply with the Department's request including calling the Department on March 25, 2024.

At the hearing, the Department testified that Petitioner's application for FAP benefits was actually denied due to Petitioner's failure to participate in the required interview, not a failure to provide verifications, and that it could not explain why the NOCA stated it was denied for failure to provide verifications.

For applications for FAP benefits, the Department must conduct a telephone interview before approving or denying benefits. BAM 115 (January 2024) pp. 18, 20, 23. 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 20<sup>th</sup> day after the application date to allow the client at least 10 days to provide verifications by the 30<sup>th</sup> day. BAM 115, p. 22. If the client misses the FAP interview appointment, the Department is to send a Notice of Missed Appointment advising a client that it is his or her responsibility to request another interview date and if the client calls to reschedule, the interview is to be scheduled no later than the 30<sup>th</sup> day after application, if possible. BAM 115, p. 23.

In this case, as noted previously, Petitioner applied for FAP benefits on [REDACTED] 2024. The Department scheduled an initial interview to take place with Petitioner on March 18, 2024 at 10:15 am but noted that it was unable to reach Petitioner and instead left a voicemail for Petitioner. (Exhibit A, p. 17, Line 3). The Department sent Petitioner a Notice of Missed Appointment the same day, which stated that Petitioner must contact the Department before April 3, 2024 to reschedule his interview. (Exhibit A, p. 16). Petitioner called the Department on March 25, 2024 and requested to reschedule his appointment and the Department told Petitioner that his worker would send him a new appointment notice in the mail. (Exhibit A, p. 17, Line 4). The Department testified that it did not send a new appointment notice to Petitioner.

Additionally, on Petitioner's request for hearing in this matter, he requested to "please make an appointment for my food benefit" (Exhibit A, p. 4), and he testified that he thought the hearing itself was his new appointment. Petitioner's action in requesting a new appointment by telephone and on the request for hearing established that he attempted to, and 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. Therefore, to the extent that Petitioner's FAP application was denied due to failure to complete the interview, the Department did not act in accordance with Department policy when it failed to reschedule Petitioner's interview when he requested to do so.

While Petitioner's application, which he testified he completed with the assistance of another, indicated his preferred written and spoken language to be English<sup>3</sup>, as evidenced by the hearing itself, Petitioner likely needs the assistance of a Bengali speaking individual. Petitioner has not requested such assistance from the Department and the undersigned does not find that the Department was required to provide an interpreter given that it did not know that the Petitioner may need language assistance until the hearing. However, now that the Department is aware that Petitioner is not fluent in English, it has an obligation to show particular sensitivity in assisting Petitioner. BAM 105 (March 2024), p. 14.

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 denied Petitioner's application for FAP when Petitioner made a reasonable effort to comply and, to the extent the Department denied Petitioner's application for FAP due to a failure to complete the interview, finds that the Department did not act in accordance with Department policy when it failed to reschedule Petitioner's interview when he timely requested to do so.

### **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:

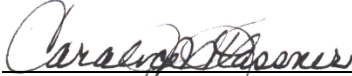
1. Reschedule Petitioner's initial interview;
2. Redetermine Petitioner's eligibility for FAP benefits from the date of application in [REDACTED] 2024 ongoing;

---

<sup>3</sup> Petitioner's application to the Department stated that his preferred written and spoken language was English; however, at the beginning of the hearing, through his niece, he indicated that his primary and preferred language is Bengali and requested that his niece be permitted to translate for him or that a translator be provided. During the hearing, Petitioner was also advised that he may request the assistance of an interpreter and/or designate an authorized representative for interactions with the Department or an authorized hearing representative for any future hearings with the Michigan Office of Administrative Hearings and Rules (MOAHR).

3. If Petitioner is eligible for any FAP benefits, issue payments to Petitioner for any FAP benefits he was eligible to receive but did not, from the date of application in March 2024 ongoing; and
4. Notify Petitioner of its decision in writing.

CML/nr

  
\_\_\_\_\_  
**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**

Caryn Jackson  
Wayne-Hamtramck-DHHS  
12140 Joseph Campau  
Hamtramck, MI 48212  
**MDHHS-Wayne-55-  
Hearings@michigan.gov**

**Interested Parties**

Wayne 55 County DHHS  
BSC4  
M. Holden  
N. Denson-Sogbaka  
B. Cabanaw  
MOAHR

**Via-First Class Mail :**

**Petitioner**

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