



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]
[REDACTED], MI [REDACTED]

Date Mailed: July 3, 2024
MOAHR Docket No.: 24-005477
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 June 24, 2024. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Angela Ware, specialist.

ISSUE

The issue is whether MDHHS properly denied Petitioner's Food Assistance Program (FAP) applications.

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] [REDACTED] 2024, Petitioner applied for FAP benefits and listed her phone number.
2. On February 6, 2024, MDHHS mailed Petitioner notice of a telephone application interview scheduled for February 15, 2024.
3. On February 15, 2024, MDHHS called Petitioner for an application interview at a phone number last used by Petitioner in approximately 2020.

4. On February 28, 2024, MDHHS denied Petitioner's application due to a failure to be interviewed.
5. On [REDACTED] [REDACTED] 2024, Petitioner reapplied for FAP benefits.
6. On April 17, 2024, MDHHS denied Petitioner's application dated April 10, 2024, due to Petitioner's alleged withdrawal.
7. As of April 17, 2024, Petitioner had not withdrawn the FAP application dated April 10, 2024.
8. On April 17, 2024, MDHHS determined that Petitioner's son, Eliseo Ramos (hereinafter, "Son") was ineligible for Medical Assistance (MA) benefits beginning May 2024.
9. On May 10, 2024, Petitioner requested a hearing to dispute both FAP benefit application denials. Petitioner also requested a hearing to dispute the stoppage in Son's MA eligibility.
10. On an unspecified date, MDHHS reinstated Son's MA eligibility beginning May 2024.

CONCLUSIONS OF LAW

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 Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing, in part, to dispute a termination of Son's MA eligibility. Exhibit A, pp. 3-7. It was not disputed that MDHHS sent Petitioner a Health Care Coverage Determination Notice dated April 17, 2024, stating that Son was ineligible for MA benefits beginning May 2024. A reason for the termination was not specified; however, it is of no matter.

MDHHS testified that Son has received continuous MA benefits long before May 2024. MDHHS's testimony was verified by documentation of Son's MA history which listed "Full Medicaid Coverage" for Son since at least May 2024. Exhibit B, pp. 1-22. Petitioner acknowledged receiving notice of the benefit reinstatement.

The evidence established that MDHHS favorably resolved Petitioner's dispute over Son's MA eligibility. Accordingly, Petitioner's dispute over Son's MA eligibility is aptly dismissed.

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 BAM, BEM, and RFT.

Petitioner also requested a hearing to dispute two denials of FAP benefits. Exhibit A, pp. 3-7. Petitioner's first application was dated [REDACTED] [REDACTED] 2024.¹ Exhibit A, pp. 9-15. A Notice of Case Action dated February 28, 2024, stated that MDHHS denied the application due to Petitioner's failure to be interviewed. Exhibit A, pp. 18-22.

For FAP benefits, MDHHS must conduct a telephone interview before approving benefits.² 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 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.

Petitioner testified she went to her local MDHHS office on February 6, 2024, and was told by MDHHS staff that she should wait to be contacted for a telephone interview. That same date, MDHHS sent Petitioner notice of a telephone application interview scheduled for February 15, 2024. Exhibit A, p. 16. MDHHS credibly testified that Petitioner was called on February 15, 2024, and that Petitioner did not answer. As a result, MDHHS sent Petitioner a Notice of Missed Interview on February 15, 2024 warning Petitioner to reschedule the interview before February 28, 2024, or risk application denial. Exhibit A, p. 17.

Petitioner responded that she did not receive a call from MDHHS on the date of the interview. Petitioner's testimony was consistent with the interview appointment notice sent by MDHHS which included the phone number that MDHHS planned to call. Notably, the phone number on the appointment notice was not the same phone number reported by Petitioner on her benefit application. Petitioner testified that she has not used that phone number from the appointment notice since approximately 2020. MDHHS testimony acknowledged that it failed to call Petitioner at the phone number reported on Petitioner's application.

¹ Petitioner submitted the application to MDHHS on [REDACTED] [REDACTED] 2024. MDHHS registers applications submitted during non-business hours for the next business day (see BAM 110).

² 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.

Petitioner cannot be faulted for not participating in a required telephone interview when MDHHS failed to call Petitioner at a properly reported telephone number. Accordingly, MDHHS's improperly denied Petitioner's application. As a remedy, Petitioner is entitled to a reregistration and reprocessing of the application.

Petitioner also disputed a denial of a second FAP benefit application.³ Petitioner reapplied for FAP benefits on [REDACTED] [REDACTED] 2024. A Notice of Case Action dated April 17, 2024, stated MDHHS denied Petitioner's application due to Petitioner voluntarily withdrawing the application. Exhibit A, pp. 35-39. Clients have the right to withdraw applications at any time before the application is processed. BAM 110 (October 2023) p. 8.

Petitioner denied ever requesting to withdraw her application for FAP benefits. MDHHS testified that Petitioner withdrew an application for State Emergency Relief, but presented no evidence that Petitioner sought to withdraw the FAP benefit application dated [REDACTED] [REDACTED] 2024. The evidence failed to establish that Petitioner withdrew the application for FAP benefits dated [REDACTED] [REDACTED] 2024. Accordingly, Petitioner is entitled to a reregistration and reprocessing of the application.⁴

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS favorably resolved Petitioner's dispute over Son's MA eligibility beginning May 2024. Concerning Son's MA eligibility, 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 applications for FAP benefits. It is ordered that MDHHS commence the following actions within 10 days of the date of mailing of this decision:

³ Petitioner testified she also wanted to dispute the amount of FAP benefits for which MDHHS later approved Petitioner. MDHHS sent Petitioner notice of the approval on May 21, 2024. Because the approval occurred several weeks after Petitioner requested a hearing, Petitioner could not have disputed the amount of FAP benefit eligibility when she requested a hearing. Petitioner was advised she can now separately dispute the FAP benefit amount.

⁴ Such a remedy need only be implemented if the reprocessing of Petitioner's earlier application does not result in FAP eligibility through April 2024.

- (1) Reregister and reprocess Petitioner's FAP benefit application dated [REDACTED] 2024, subject to the finding that Petitioner did not fail to be interviewed;
 - (2) If necessary, reregister and reprocess Petitioner's FAP benefit application dated [REDACTED] 2024, subject to the finding that Petitioner did not voluntarily withdraw her application; and
 - (3) Issue 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

Tracy Felder
Wayne-Southwest-DHHS
2524 Clark Street
Detroit, MI 48209
**MDHHS-Wayne-41-
Hearings@michigan.gov**

Interested Parties

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M. Holden
N. Denson-Sogbaka
B. Cabanaw
MOAHR

Via-First Class Mail :

Petitioner

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