



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: July 26, 2024  
MOAHR Docket No.: 24-007012  
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 Microsoft Teams (audio only) on July 18, 2024. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Lori Turner, specialist.

### **ISSUE**

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

### **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 under the electronic account of her adult child. Petitioner also reported to MDHHS having the phone number belonging to her adult child.
2. On April 30, 2024, MDHHS got no answer after calling Petitioner for an application interview at the phone number belonging to Petitioner's adult child.
3. On May 8, 2024, Petitioner called MDHHS to be interviewed and reported a change in phone number from her application.

4. On May 8, 2024, MDHHS mailed Petitioner an Appointment Notice stating that MDHHS would call Petitioner at her adult child's phone number on May 16, 2024.
5. On May 16, 2024, MDHHS twice called Petitioner's adult child's phone number and both times the telephone call dropped.
6. On May 16, 2024, MDHHS sent Petitioner notice that she missed a FAP interview and that her application would be denied unless she rescheduled the interview by May 16, 2024.
7. On June 5, 2024, Petitioner requested a hearing to dispute FAP eligibility.

### **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 BAM, BEM, and RFT.

Petitioner requested a hearing to dispute a denial of FAP benefits. Exhibit A, pp. 3-5. Petitioner applied for FAP benefits on [REDACTED] [REDACTED] 2024. MDHHS stated that it denied Petitioner's application due to Petitioner's failure to be interviewed.

For FAP benefits, MDHHS must conduct a telephone interview before approving benefits.<sup>1</sup> 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 sends 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 30<sup>th</sup> 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.

An MDHHS specialist documented that Petitioner was called on April 30, 2024 and there was no answer. Exhibit A, p. 10. Petitioner acknowledged that the fault lay with her. Petitioner explained that she used her adult child's electronic account when applying for FAP benefits which resulted in reporting her adult child's phone number was her own. Because of Petitioner's reporting, MDHHS called Petitioner's adult child who was unresponsive to the call.

Petitioner testified she corrected her error on May 8, 2024, by calling MDHHS and requesting a second interview while also reporting an updated phone number. In

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<sup>1</sup> 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.

response, MDHHS sent Petitioner a written notice stating that Petitioner would be called at the same phone number reported as her adult child's phone number on May 16, 2024. Exhibit A, p. 11. MDHHS documented that it twice called Petitioner at her adult child's phone number on May 16, 2024, and that both calls were dropped.

MDHHS contended that Petitioner did not report on May 8, 2024, a change in phone number. However, MDHHS's own comments on May 8, 2024 stated that Petitioner called from the phone number she wanted MDHHS to call for an appointment. Exhibit A, p. 10. Further, MDHHS comments dated March 25, 2024 also listed Petitioner's proper phone number. If Petitioner did not report an updated phone number to MDHHS, MDHHS should have noticed that Petitioner was calling from a phone number different from the phone number MDHHS was calling to interview Petitioner.<sup>2</sup> The evidence established that MDHHS failed to call Petitioner at the correct phone number for an interview.<sup>3</sup>

Given the evidence, MDHHS improperly denied Petitioner's FAP application because MDHHS failed to properly contact Petitioner for an interview.<sup>4</sup> As a remedy, Petitioner is entitled to a reprocessing of the application.

### **DECISION AND ORDER**

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. It is ordered that MDHHS commence the following actions within 10 days of the date of mailing of this decision:

- (1) Reregister Petitioner's FAP application dated [REDACTED] 2024;
- (2) Reprocess Petitioner's application subject to the finding that MDHHS failed to properly contact Petitioner for a telephone interview; 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

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<sup>2</sup> In MDHHS's defense, Petitioner should have notice sent on May 8, 2024, that the appointment notice included the incorrect phone number. There was no evidence that Petitioner called MDHHS to report that it would be calling the wrong phone number on May 16, 2024.

<sup>3</sup> MDHHS successfully called Petitioner on June 28, 2024 for an interview at the phone number updated by Petitioner on May 8, 2024.

<sup>4</sup> Much of the hearing was devoted to efforts by MDHHS and Petitioner to complete an interview after May 16, 2024. Because of MDHHS's error in contacting Petitioner on May 16, 2024, subsequent actions need not be considered.

**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**  
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**Interested Parties**  
BSC4  
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B. Cabanaw  
MOAHR

**Via-First Class Mail :**

**Petitioner**  
[REDACTED]  
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