



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

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██████████, MI ██████████

Date Mailed: March 23, 2022
MOAHR Docket No.: 22-000044
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Danielle Nuccio

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 telephone hearing was held on March 21, 2022. The Petitioner appeared and represented himself. Arabic interpreters Hend Hourani and Hisham Al-Haebal translated the hearing for Petitioner. The Department of Health and Human Services (MDHHS) was represented by Valarie Foley, Hearings Facilitator.

ISSUE

Did MDHHS properly close Petitioner's Food Assistance Program (FAP) case for failing to complete the redetermination 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. Petitioner was an ongoing recipient of FAP benefits for a group size of six.
2. Petitioner submitted an incomplete annual redetermination of FAP benefits to MDHHS for the certification period ending November 30, 2021.
3. On October 24, 2021, MDHHS sent an Appointment Notice to Petitioner informing him that a telephone interview was scheduled for November 1, 2021.
4. Petitioner called for the interview on November 1, 2021. The interview was unable to be completed because Petitioner was required to submit additional documentation as part of his redetermination prior to the interview.

5. On November 12, 2021, Petitioner submitted all requested documentation to MDHHS.
6. On November 19, 2021, MDHHS called Petitioner in an attempt to complete the redetermination interview. Petitioner did not answer the call. Petitioner did not return the voicemail MDHHS left for him.
7. On December 15, 2021, MDHHS issued a Notice of Case Action to Petitioner informing him that his FAP case closed effective [REDACTED], 2021 for failure to complete the required phone interview (Exhibit A, pp. 5-9).
8. On January 7, 2022, MDHHS received Petitioner's timely hearing request disputing the closure of his FAP case (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. MDHHS (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 regarding the closure of his FAP case effective [REDACTED], 2021 for failure to complete the required redetermination interview.

MDHHS must periodically redetermine or renew an individual's eligibility for active programs. The redetermination/renewal process includes a thorough review of all eligibility factors. BAM 210 (November 2021), p. 1. FAP benefits stop at the end of the benefit period unless a redetermination is completed, and a new benefit period is certified. BAM 210, p. 4. A telephone interview is required at redetermination before MDHHS determines ongoing eligibility. BAM 210, p. 6.

A redetermination/review packet is considered complete when all of the sections of the redetermination form including the signature section are completed. If any section of the redetermination/review packet has not been completed but there is a signature, consider the redetermination/review complete. Any missing sections can be completed during the interview. BAM 210, p. 13. Verifications must be provided by the end of the current benefit period or within 10 days after they are requested, whichever allows more time. If the tenth day falls on a weekend or holiday, the verification will not be due until the next business day. The DHS-3503, Verification Checklist, should be sent after the

redetermination interview for any missing verifications allowing 10 days for their return. BAM 210, pp.17-18.

Petitioner called for the required interview on November 1, 2021. MDHHS did not conduct the interview at this time because they stated that the redetermination was incomplete and therefore, they could not complete the interview. However, one of the reasons for the interview is for MDHHS to inform Petitioner of what verifications they still need, if any, to determine his FAP eligibility. Additionally, there was no evidence presented that MDHHS issued a Verification Checklist to Petitioner to inform him of the documentation that they still required to determine his eligibility. Therefore, MDHHS did not act in accordance with policy in closing Petitioner's FAP case for failure to complete the redetermination interview.

Petitioner applied for FAP benefits on [REDACTED], 2022 and subsequently was approved for a new FAP case.

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 MDHHS did not act in accordance with Department policy when it closed Petitioner's FAP case for failure to complete the redetermination interview.

DECISION AND ORDER

Accordingly, MDHHS' 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. Reinstate Petitioner's FAP case as of [REDACTED], 2021;
2. Supplement Petitioner for any lost FAP benefits that Petitioner was entitled to receive if otherwise eligible and qualified;
3. Notify Petitioner of its decision in writing.

DN/mp



Danielle Nuccio

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

Email Recipients:

MDHHS-Wayne-19-Hearings
D. Sweeney
M. Holden
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First-Class Mail Recipient:

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