



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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Date Mailed: September 12, 2022
MOAHR Docket No.: 22-003483
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 September 7, 2022. The Petitioner appeared and represented herself. The Department of Health and Human Services (MDHHS) was represented by Michelle Collins, Eligibility Specialist.

ISSUES

1. Did Petitioner timely request a hearing to contest a MDHHS decision affecting her Food Assistance Program (FAP) eligibility?
2. Did MDHHS properly close Petitioner's FAP case for failure to complete the redetermination phone 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 one.
2. On March 22, 2022, Petitioner timely submitted an annual renewal of FAP benefits to MDHHS for the certification period ending April 30, 2022. This renewal informed Petitioner that she was required to have an interview with a MDHHS specialist, and that the specialist would contact her on April 1, 2022 between 1:15PM – 1:30PM on the phone number Petitioner provided to MDHHS (Exhibit A, pp. 5-7).
3. On April 1, 2022, MDHHS issued a Notice of Missed Appointment to Petitioner, informing her that she missed her scheduled phone interview and that it is her

responsibility to reschedule the interview by April 30, 2022 or her redetermination will be denied (Exhibit A, p. 8).

4. Effective [REDACTED] 2022, Petitioner's FAP case was closed for failure to complete the redetermination phone interview.
5. On August 2, 2022, Petitioner submitted a hearing request to dispute the closure of her FAP case (Exhibit A, p. 3).

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 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 to dispute the closure of her FAP case for failure to complete the redetermination interview. Clients have the right to contest a MDHHS decision affecting eligibility or benefit levels whenever they believe the decision is incorrect. BAM 600 (March 2021), p. 1. The client has 90 calendar days from the date of the *written* notice of case action to request a hearing. BAM 600, p. 6 (Emphasis added). MDHHS is required to issue a timely and adequate notice of case action to inform clients in writing of positive and negative case actions. BAM 229 (April 2022), pp. 2-3. MDHHS is not required to issue a notice of case action if the FAP certification period has expired and redetermination application was not filed. BAM 220, p. 6.

In this case, Petitioner submitted a redetermination of FAP benefits on March 22, 2022. This redetermination informed Petitioner that she must complete a redetermination interview on April 1, 2022. MDHHS closed Petitioner's FAP benefits automatically after she failed to complete the redetermination interview, effective [REDACTED] 2022. No written notice of case action was sent to Petitioner to inform her that her FAP case would close. MDHHS should have issued a notice of case action to inform Petitioner that her FAP case was closing for failure to complete the phone interview after she filed the redetermination. Petitioner realized that her FAP case was closed after several months, then requested a hearing on August 2, 2022. MDHHS did not act in accordance with policy by failing to issue a notice of case action to Petitioner. Since Petitioner was not informed in writing of the action taken in her case, and she requested a hearing just

over 90 days from the case action, the Petitioner's request for hearing will be heard and a decision rendered.

MDHHS must periodically redetermine or renew an individual's eligibility for active programs. The redetermination/renewal process includes thorough review of all eligibility factors. BAM 210 (April 2022), 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. Benefits stop at the end of the benefit period unless a redetermination is completed and a new benefit period is certified. BAM 210, p. 3. The FAP group loses its right to uninterrupted FAP benefits if it fails to participate in the scheduled interview. BAM 210, p. 22.

In this case, Petitioner timely submitted her renewal of FAP benefits to MDHHS on March 22, 2022. This renewal stated that Petitioner was required to have an interview with MDHHS on April 1, 2022, between 1:15PM – 1:30PM. MDHHS would call Petitioner for the interview. Petitioner confirmed that the phone number that MDHHS relied upon was her correct phone number. No additional appointment notice was issued to Petitioner regarding this interview. See Exhibit A, p. 5. Petitioner provided phone records showing that she did not receive a phone call from MDHHS on April 1, 2022. See Exhibit A, p. 9. MDHHS was unable to produce phone records showing that they called Petitioner on April 1, 2022, but introduced a Case Comment entered into Bridges by Caseworker Griffin stating that on April 1, 2022 she "attempted to call client for REDET interview, client did not answer, worker left message". On April 29, 2022, Caseworker Griffin entered an additional Case Comment stating that a "final attempt was made to contact this client; eligibility denied; failed to attend interview within 30 days". See Exhibit A, p. 15. Caseworker Griffin did not appear at the hearing to testify regarding her attempts to contact Petitioner. Petitioner testified that she did not receive the voicemail from Caseworker Griffin on April 1, 2022.

On April 1, 2022, a Notice of Missed Appointment was issued to Petitioner advising her that she must reschedule the redetermination interview by April 30, 2022 or her redetermination will be denied. See Exhibit A, p. 8. Petitioner testified that she then contacted Caseworker Griffin but was unable to make contact with her. Petitioner presented phone records to corroborate her testimony, showing that she contacted MDHHS multiple times throughout April in attempts to complete the required interview. See Exhibit A, pp. 9-12. Petitioner was unable to make contact with Caseworker Griffin despite these attempts. MDHHS did not have an explanation for why Petitioner's calls were unanswered and not returned. Petitioner's FAP benefits were then automatically closed, effective [REDACTED] 2022. Given Petitioner's diligence in attempting to participate in the required interview, MDHHS did not act in accordance with policy in closing Petitioner's FAP case for failure to complete the redetermination interview.

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.

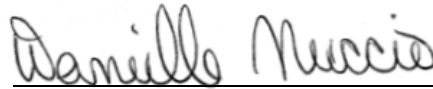
DECISION AND ORDER

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] 2022;
2. Begin recalculating the FAP budget for [REDACTED] 2022 ongoing;
3. If Petitioner is eligible for FAP benefits, issue supplements to Petitioner for any FAP benefits she was eligible to receive but did not from [REDACTED] 2022 ongoing;
4. 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

Via-Electronic Mail :

DHHS
MDHHS-Wayne-55-Hearings
D. Sweeney
M. Holden
MOAHR
BSC4

Via-First Class Mail :

Petitioner

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