



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: October 19, 2022
MOAHR Docket No.: 22-003847
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 October 17, 2022. The Petitioner appeared and represented herself. The Department of Health and Human Services (MDHHS) was represented by Alice Gilmer, Family Independence Manager.

ISSUE

Did MDHHS properly deny Petitioner's Food Assistance Program (FAP) May 24, 2022 application for failure to complete the application 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. On ██████████, 2022, Petitioner submitted an application for FAP for a one-person group (Exhibit A, pp. 31-34).
2. On June 2, 2022, MDHHS issued an Appointment Notice to Petitioner, informing her that a telephone interview was scheduled for Thursday, June 9, 2022, at 11:45 a.m., and providing her the necessary details for the interview (Exhibit A, p. 27).
3. On June 9, 2022, MDHHS sent Petitioner a notice that she missed the required interview to apply for FAP benefits. In this notice, MDHHS advised Petitioner that it was her responsibility to reschedule the interview, otherwise her application would be denied (Exhibit A, p. 28).

4. On June 23, 2022, MDHHS issued a Notice of Case Action to Petitioner informing that her FAP application has been denied for failure to complete the interview requirement (Exhibit A, pp. 29-30).
5. On [REDACTED] 2022, MDHHS received Petitioner's timely submitted hearing request disputing the denial of her FAP application (Exhibit A, pp. 4-5).

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 disputes MDHHS's denial of her [REDACTED] 2022 FAP application for failing to complete the required interview with MDHHS.

Following registration of a FAP application, MDHHS **must** interview clients. BAM 115 (October 1, 2022), p. 1 (Emphasis added). The purpose of the interview is to explain program requirements to the applicant and to gather information for determining the group's eligibility. BAM 115, p. 17-18. During the interview, MDHHS will:

- State the client's rights and responsibilities
- Review and update the application.
- Help complete application items not completed when it was filed.
- Resolve any unclear or inconsistent information.
- Request needed verification not brought to the interview.
- Advise the client of the standard of promptness for processing.
- Make services referrals if needed.
- Confirm if the client needs a MiHealth card and/or Bridge card.
- Advise how and when they receive benefits.

BAM 115, p. 18-19.

FAP interviews must be held by phone by the 20th day after the application date to allow the client at least 10 days to provide verifications by the 30th day. If clients miss an interview appointment, Bridges sends a Notice of Missed Interview, advising them that it is the clients' responsibility to request another interview date. It sends a notice only after the first missed interview. If the client calls to reschedule, the interview will be scheduled

prior to the 30th day from application submission, if possible. If the client fails to reschedule or misses the rescheduled interview, the application will be denied on the 30th day after it was submitted. BAM 115, p. 24.

In this case, Petitioner applied for FAP on [REDACTED], 2022. Petitioner confirmed that she received the Appointment Notice informing her that the application interview was scheduled for June 9, 2022, at 11:45 a.m. Petitioner confirmed that the phone number on the Appointment Notice is her correct phone number. Petitioner testified that she did not receive a call from MDHHS on June 9, 2022. Petitioner waited 15 minutes after her scheduled appointment time, then began to call and leave messages for her MDHHS caseworker. Petitioner's phone calls were not returned by MDHHS. The testimony from Petitioner was credible and un rebutted. MDHHS was unable to present any evidence that a caseworker called, or attempted to call, Petitioner on June 9, 2022. Typically, the caseworker notes in the client's "Case Comment" section documentation of contacts or attempted contacts with that client. MDHHS presented the Case Comments in Petitioner's case; no entry was made for June 9, 2022 (see Exhibit A, p. 8). On June 23, 2022, MDHHS issued a Notice of Case Action informing Petitioner that her May 24, 2022 FAP application was denied for failure to complete the required interview. MDHHS has failed to satisfy its burden that it acted in accordance with policy in denying Petitioner's application for failure to complete the required interview because MDHHS has not shown that they attempted to contact Petitioner on the interview appointment date and did not return Petitioner's subsequent phone calls in attempts to complete the application 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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Petitioner's [REDACTED], 2022 FAP application for failure to complete the application 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. Reregister the [REDACTED] 2022 application;
2. Reprocess the application and recalculate the FAP budget for [REDACTED] 2022 ongoing;
3. If Petitioner is eligible for 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/tm

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
Denise McCoggle
Wayne-Greydale-DHHS
27260 Plymouth Rd
Redford, MI 48239
**MDHHS-Wayne-15-Greydale-
Hearings@michigan.gov**

Interested Parties

M. Holden
D. Sweeney
BSC4

Via-First Class Mail :

Petitioner

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