



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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

Date Mailed: February 14, 2023
MOAHR Docket No.: 23-000169
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 line on February 8, 2023. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Olivette Gordon, manager

ISSUE

The issue is whether MDHHS failed to process Petitioner's Food Assistance Program (FAP) application within its standards of promptness.

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] 2021, MDHHS received an application for FAP benefits from Petitioner.
2. On January 11, 2023, Petitioner requested a hearing to dispute the failure of MDHHS to process her application. Petitioner also disputed an alleged closure of Medical Assistance (MA) benefits.
3. As of February 8, 2023, MDHHS had not yet processed Petitioner's application for FAP benefits.
4. On February 8, 2023, during an administrative hearing, Petitioner withdrew the dispute concerning MA benefits.

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 MA eligibility. Exhibit A, pp. 3-5. During the hearing, MDHHS testified that no adverse action was taken to Petitioner's MA eligibility. Petitioner agreed and verbally withdrew the hearing request concerning MA benefits; MDHHS had no objections. Concerning MA benefits, Petitioner's hearing request will be dismissed.

The 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 administers the FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011. FAP policies are contained in the BAM, BEM, and RFT.

Petitioner also requested a hearing to dispute FAP benefits. Exhibit A, pp. 3-5. Petitioner specifically alleged that she has repeatedly submitted FAP applications to MDHHS which go unprocessed.

An application or filing form, with the minimum information, must be registered in the MDHHS database unless the client is already active for that program. BAM 115 (July 2021) p. 1. FAP applications must be processed no later than 29 days after the registration date to ensure that benefits are available to the client by the 30th day following application submission.¹ *Id.* p. 17.

MDHHS testified that Petitioner applied for FAP benefits on [REDACTED] 2023. In processing the application, MDHHS testimony acknowledged it discovered Petitioner's application dated [REDACTED] 2021. Exhibit A, pp. 7-13. MDHHS testimony also acknowledged that Petitioner's 14-month-old application went improperly unprocessed.

The evidence established that MDHHS miserably failed to meet its 30-day standard of promptness in processing Petitioner's application dated [REDACTED] 2021. As a remedy, Petitioner is entitled to application processing compliant with MDHHS's standards of promptness.²

¹ MDHHS must process clients eligible for expedited benefits within 6 days to ensure that benefits are available on the seventh day. *Id.*

² The evidence supported that MDHHS has made efforts to process Petitioner's application. MDHHS testified it immediately called Petitioner after discovering the application from November 2021. On

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that Petitioner withdrew the hearing request disputing MA benefits. Concerning 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 failed to timely process 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) Register and process Petitioner's FAP application dated [REDACTED] 2021 subject to standards of promptness; and
- (2) Issue a supplement of benefits and notice, if any, in accordance with policy.

The actions taken by MDHHS are **REVERSED**.

CG/mp



Christian Gardocki

Administrative Law Judge

January 20, 2023, MDHHS also sent Petitioner notice of an interview appointment for January 27, 2023. Exhibit A, p. 6. Petitioner did not answer on the date of appointment and MDHHS left a voicemail. Petitioner testified she did not receive notice of the appointment until after the appointment time.

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-57-Hearings
D. Sweeney
M. Holden
MOAHR
BSC4

Via-First Class Mail :

Petitioner

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