



GRETCHEN WHITMER
GOVERNOR

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

MARLON I. BROWN, DPA
ACTING DIRECTOR

Date Mailed: October 23, 2023
MOAHR Docket No.: 23-005878
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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 18, 2023. Petitioner appeared and represented himself. Muzahem Alsayaf facilitated Petitioner's understanding of the hearing by translating from English to Arabic. The Department of Health and Human Services (Department) was represented by Valarie Foley, Hearings Facilitator.

ISSUE

Did MDHHS properly deny Petitioner's Food Assistance Program (FAP) application for failure to complete the application telephone 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 [REDACTED] 2023, Petitioner applied for FAP benefits.
2. On September 8, 2023, MDHHS attempted to complete a phone interview with Petitioner as part of the FAP application process. Petitioner did not answer the phone call (Exhibit A, p. 6).
3. On September 8, 2023, MDHHS issued a Notice of Missed Appointment to Petitioner, informing him that he missed the required interview to apply for FAP benefits. In this notice, MDHHS advised Petitioner that it was his responsibility to reschedule the interview before September 13, 2023, otherwise his application would be denied (Exhibit A, p. 7).

4. On September 13, 2023, Petitioner called MDHHS to inquire about his application status. MDHHS advised Petitioner to re-apply for FAP benefits (Exhibit A, p. 12).
5. On September 13, 2023, MDHHS issued a Notice of Case Action informing Petitioner that his FAP application has been denied for failure to complete the interview requirement (Exhibit A, pp. 13-16).
6. On September 15, 2023, MDHHS received Petitioner's timely submitted hearing request disputing the denial of her FAP application (Exhibit A, pp. 3-5).

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 FAP application for failing to complete the required interview with MDHHS.

Following registration of a FAP application, MDHHS **must** interview clients. BAM 115 (January 2023), 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, pp. 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, pp. 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.

MDHHS testified that they attempted to interview Petitioner on September 8, 2023. Petitioner did not answer the phone call. It is unknown if MDHHS left a voicemail message. Petitioner testified that he did not receive a phone call on this date. On September 8, 2023, MDHHS then issued an Appointment Notice to Petitioner, informing him that he missed the required interview to apply for FAP benefits. In this notice, MDHHS advised Petitioner that it was his responsibility to reschedule the interview before September 13, 2023, otherwise his application would be denied. In reviewing the Case Comments from Petitioner's Electronic Case File provided by MDHHS, Petitioner did call MDHHS on September 13, 2023. Rather than interviewing him at this time, MDHHS informed Petitioner that his FAP application was denied and advised him to re-apply. It is unknown why MDHHS did not interview Petitioner during this phone call, when it was the deadline to reschedule the interview and within 30 days of the application date. Therefore, MDHHS has failed to satisfy its burden that they acted in accordance with policy when denying Petitioner's FAP application for failure 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 the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Petitioner's FAP application.

DECISION AND ORDER

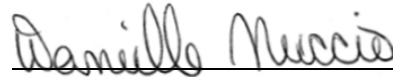
Accordingly, the Department's decision is **REVERSED**.

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 Petitioner's [REDACTED] 2023 application;
2. Reprocess the application/recalculate the FAP budget for August 14, 2023 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 August 14, 2023 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 :

Interested Parties

MDHHS-Wayne-19-Hearings
D. Sweeney
M. Holden
MOAHR
BSC4

Via-First Class Mail :

Petitioner

[REDACTED] MI [REDACTED]