



GRETCHEN WHITMER  
GOVERNOR

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

MARLON BROWN  
DIRECTOR

██████████  
████████████████████  
██████████████████ MI ██████████

Date Mailed: June 7, 2024  
MOAHR Docket No.: 24-005019  
Agency No.: ██████████  
Petitioner: ██████████

**ADMINISTRATIVE LAW JUDGE: Julia Norton**

**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 June 3, 2024. Petitioner was present and represented by ██████████, Petitioner’s son and Authorized Hearing Representative (AHR). ██████████, Petitioner’s daughter-in-law, and AHR appeared as witnesses for Petitioner. Zanid Ullah, identification number 10214, appeared as an Urdu interpreter for Petitioner. The Department of Health and Human Services (Department) was represented by Avery Smith, Assistance Payment Supervisor.

**ISSUE**

Did the Department properly deny Petitioner’s Food Assistance Program (FAP) application?

**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 ██████████ 2024, Petitioner applied for FAP assistance. Because the application was submitted electronically after 5 p.m. on ██████████ 2024, the date of application is ██████████ 2024. Exhibit A, pp. 8-16.
2. On March 5, 2024, the Department sent Petitioner an Appointment Notice for March 14, 2024 informing her the Department would call her between 11:00 am and 1:00 pm on Petitioner’s telephone number ending in ██████████ (cellphone). Exhibit A, p. 5.

3. On March 14, 2024, the Department sent Petitioner a Notice of Missed Appointment indicating Petitioner missed her FAP interview and directing Petitioner to reschedule the interview by April 3, 2024. Exhibit A, p.6.
4. On March 21, 2024, the Department received Petitioner's letter to reschedule the interview. Exhibit A, p. 7.
5. On April 4, 2024, the Department denied Petitioner's FAP application for failing to participate in the interview.
6. On April 23, 2024, the Department received Petitioner's request for hearing disputing the denial of her FAP application. 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. 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.

In this case, Petitioner disputes the Department's denial of her FAP application for failing to participate in a telephone interview.

For FAP, an interview is required before denying assistance even if it is clear from the application or other sources that the group is ineligible. BAM 115 (May 1, 2024), p. 18. The Department schedules the interview as a telephone appointment unless specific policy directs otherwise. The interview must be held by the 20th day after the application date to allow the client at least 10 days to provide verifications by the 30th day. *Id.*, p. 22. If the client misses an interview appointment, the Department sends a Notice of Missed Interview, advising the client it is her responsibility to request another interview date. It sends a notice only after the first missed interview. If the client calls to reschedule, the Department sets the interview prior to the 30th day after the application date, if possible. If the client fails to reschedule or misses the rescheduled interview the Department denies the application on the 30th day. *Id.*, p. 23.

Petitioner testified she received the interview appointment notice for March 14, 2024 but she did not receive a phone call that day. She explained she then received the Notice of Missed Appointment. In response, Petitioner sent the Department a letter dated March

20, 2024 requesting a telephone interview. Petitioner's letter provided two telephone contact numbers: her cellphone and AHR's cellphone. Petitioner credibly testified she received a phone call from the Department on April 3, 2024 on her cell phone. She explained the Department asked her for her case number and there was some confusion over this information. While Petitioner was trying to clarify her case number, the call disconnected. ■ credibly testified she was with Petitioner at the time Petitioner received the Department's call. ■ testified that after the call disconnected, ■ called the Department and spoke to an agent and explained Petitioner's telephone interview had disconnected. ■ explained the Department said someone would call Petitioner back. Petitioner did not receive another phone call. AHR credibly testified he did not receive any phone call from the Department on his cellphone on April 3, 2024.

The Department testified its records reflected that on March 14, 2024, it placed a call to Petitioner's cellphone and then issued a Notice of Missed Appointment. The Department acknowledged it received Petitioner's letter dated March 20, 2024 requesting a rescheduled telephone interview. The Department did not notify Petitioner of a rescheduled interview date and time. Instead, the Department testified that its records indicated the Department placed another call to Petitioner's cellphone on April 3, 2024 at 9:40 a.m. and the call went to voicemail. On April 4, 2024, the Department denied Petitioner's FAP application.

Based on the evidence presented at the hearing, Petitioner and ■ credibly testified that Petitioner began, but did not complete, the telephone interview on April 3, 2024. The Department admitted it called Petitioner on April 3, 2024. Although the Department testified that its records showed the April 3, 2024 phone call went to voicemail, Petitioner and ■ testimony established that Petitioner participated in but was unable to complete the interview due to the call disconnecting and the Department not calling her back despite assurances it would. The Department did not act in accordance with Department policy when it denied Petitioner's FAP application for failing to participate in the 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 and reprocess Petitioner's ■ 2024 FAP application;

2. If Petitioner is eligible for FAP benefits, supplement Petitioner for FAP benefits she is eligible to receive from March 5, 2024 ongoing; and
3. Notify Petitioner of its decision in writing.

JN/cc



---

**Julia Norton**  
Administrative Law Judge

