



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES  
SUZANNE SONNEBORN  
EXECUTIVE DIRECTOR

MARLON I. BROWN, DPA  
DIRECTOR

[REDACTED], MI [REDACTED]

Date Mailed: August 22, 2024  
MOAHR Docket No.: 24-008130  
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 August 14, 2024. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Ryan Kennedy, specialist.

### **ISSUE**

The issue is whether MDHHS properly denied 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 April 4, 2024, MDHHS mailed Petitioner FAP redetermination documents stating a return due date of May 6, 2024.
2. On May 6, 2024, MDHHS mailed Petitioner a Notice of Missed Appointment form stating that Petitioner's redetermination was not received, and/or Petitioner missed an interview. The form warned that Petitioner needed to return the form and/or reschedule the interview or FAP benefits would close at the end of June 2024.
3. On May 17, 2024, Petitioner submitted redetermination documents to MDHHS.

4. On May 20, 2024, MDHHS called Petitioner and left a voicemail that a telephone interview would be held on May 28, 2024.
5. On May 28, 2024, MDHHS called Petitioner unsuccessfully for an interview and left a voicemail.
6. On May 28, 2024, MDHHS mailed Petitioner a Notice of Missed Appointment form stating that Petitioner's redetermination was not received, and/or Petitioner missed an interview. The form warned that Petitioner needed to reschedule the interview or FAP benefits would close at the end of June 2024.
7. On June 14, 2024, Petitioner told MDHHS that an interview for June 18, 2024 at 10:00 a.m. was requested.
8. On June 18, 2024, MDHHS called Petitioner unsuccessfully for an interview at 10:06 a.m.
9. As of July 2024, Petitioner did not complete a redetermination interview.
10. On July 12, 2024, Petitioner requested a hearing to dispute a termination of FAP benefits. Petitioner also disputed a termination of Medical Assistance (MA) benefits.
11. On August 14, 2024, during an administrative hearing, Petitioner withdrew this dispute over MA benefit termination.

### **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 a termination of MA benefits. Exhibit A, p. 3. During the hearing, Petitioner testified that MDHHS favorably resolved the MA dispute by reinstating benefits; Petitioner also testified that a hearing was no longer needed concerning MA benefits.<sup>1</sup> MDHHS had no objections to Petitioner's partial hearing request withdrawal. Based on the partial withdrawal of Petitioner's hearing request, Petitioner's dispute over MA benefits is aptly dismissed.

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<sup>1</sup> A Health Care Coverage Determination Notice dated July 9, 2024, stated that Petitioner was approved for Medicaid beginning August 2024. Exhibit A, pp. 6-8.

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

Petitioner also requested a hearing to dispute a termination of FAP benefits. Exhibit A, p. 3. It was not disputed that Petitioner's FAP eligibility ended beginning July 2024.<sup>2</sup> MDHHS testified that Petitioner's FAP eligibility ended due to a failure to be interviewed as part of a redetermination.

For all programs, MDHHS must periodically redetermine or renew an individual's eligibility for active programs. BAM 210 (October 2022) p. 1. The redetermination process includes a thorough review of all eligibility factors. *Id.* For all programs, MDHHS mails a redetermination packet to the client three days prior to the negative action cut-off date in the month before the redetermination is due. *Id.*, p. 8. If MDHHS does not log a returned Redetermination form by the cut-off date of the redetermination month, a notice is generated warning the client of benefit closure by the end of the month. *Id.*, p. 13.

Generally, an interview is required for FAP benefits.<sup>3</sup> BAM 210 (July 2024) p. 5. If the client misses the interview, a DHS-254, Notice of Missed Interview is sent to the client. *Id.* MDHHS is to conduct a telephone interview at redetermination before determining ongoing eligibility. *Id.* During the interview, MDHHS should compare redetermination form information to ongoing case information, reconcile any discrepancies, ensure all redetermination form sections are completed, and verbally cover rights and responsibilities. *Id.*, p. 15.

The benefit group loses its right to uninterrupted benefits if an interview is not completed. *Id.*, p. 21. If a client files an application for redetermination before the end of the benefit period, but fails to take a required action, the case is denied at the end of the benefit period. *Id.*, p. 22.

Petitioner received FAP for a benefit period certified through June 2024. MDHHS sent Petitioner redetermination documents due on May 6, 2024. MDHHS testified it sent Petitioner a Notice of Missed Interview after Petitioner failed to return redetermination documents by the due date; however, Petitioner did submit redetermination documents to MDHHS on May 17, 2024. MDHHS testified that a specialist called Petitioner on May 20, 2024 and left a voicemail stating an interview would be held on May 28, 2024. A second staff member documented calling Petitioner on May 28, 2024, and leaving a

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<sup>2</sup> Petitioner reapplied for FAP on July 22, 2024, and was approved. Thus, only the first 21 days in July 2024, when Petitioner did not receive FAP benefits, is at stake in the present case.

<sup>3</sup> FAP groups that have no earned income and in which all adult members are elderly or disabled do not require an interview at redetermination, unless the group requests an interview or if there are any outstanding issues or questions about the recertification process. BAM 210 (July 2024) p. 5.

voicemail after Petitioner did not answer. Also on May 28, 2024, MDHHS sent Petitioner a Notice of Missed Interview again warning Petitioner that FAP benefits would end at the end of June 2024 unless Petitioner completed an interview. On June 14, 2024, Petitioner was scheduled to be interviewed on June 18, 2024 at 10:00 a.m. MDHHS documented that Petitioner was called at 10:00 a.m. and again did not answer. When Petitioner allegedly did not reschedule another interview before the end of June 2024, Petitioner's FAP eligibility ended.

Petitioner's testimony denied being called by MDHHS on May 20, May 28, and June 18, 2024. Petitioner submitted to MDHHS a phone log allegedly verifying her testimony. For each date, at least one incoming telephone call was documented during business hours. On June 18, 2024, Petitioner's phone log documented a call at 10:00 a.m.: only six minutes from the undisputed interview time. Petitioner emphasized that each allegedly from MDHHS was not marked as from MDHHS; however, it is understood that calls from MDHHS may appear as generic phone numbers.

Petitioner ultimately acknowledged that MDHHS may have called, but she did not receive a call. There was no evidence that there were any issues with MDHHS's telephone system other than Petitioner's uncorroborated testimony of not receiving calls for an interview.

MDHHS's documentation of its calls to Petitioner was persuasive. The documentation was authored by more than one MDHHS specialist which raises the credibility of the documentation. Petitioner's phone log tended to verify MDHHS's calls rather than establish that MDHHS failed to call; in particular, the call on June 18, 2024 at 10:06 a.m. was very persuasive. There was no evidence that Petitioner attempted to contact MDHHS after the missed interview in June 2024. Given the evidence, MDHHS properly terminated Petitioner's FAP benefits beginning July 2024 due to a failure by Petitioner to be interviewed.

**DECISION AND ORDER**

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that Petitioner withdrew the dispute over MA termination beginning August 2024. Concerning MA benefit termination, Petitioner's hearing request is **DISMISSED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly terminated Petitioner's FAP eligibility beginning July 2024. The actions taken by MDHHS are **AFFIRMED**.

CG/nr

  
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**Christian Gardocki**  
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**

Vivian Worden  
Macomb County DHHS Mt. Clemens Dist.  
44777 Gratiot  
Clinton Township, MI 48036  
**MDHHS-Macomb-12-Hearings@michigan.gov**

**Interested Parties**

BSC4  
M. Holden  
N. Denson-Sogbaka  
B. Cabanaw  
MOAHR

**Via-First Class Mail :**

**Petitioner**

[REDACTED]  
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[REDACTED], MI [REDACTED]