



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



Date Mailed: August 30, 2024  
MOAHR Docket No.: 24-008337  
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 on August 22, 2024. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Sunshine Simonson, specialist.

**ISSUE**

The issue is whether MDHHS properly denied Petitioner's Food Assistance Program (FAP) applications.

**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] 2024, Petitioner applied for FAP benefits.
2. On May 17, 2024, MDHHS called Petitioner for an application interview and Petitioner did not answer.
3. On May 29, 2024, Petitioner called MDHHS for an application interview.
4. On May 29, 2024, MDHHS mailed Petitioner a notice for an interview to be held on June 5, 2024.

5. As of June 2, 2024, MDHHS did not mail Petitioner a Notice of Missed Interview.
6. On approximately June 2, 2024, MDHHS denied Petitioner's application.
7. On an unspecified date, MDHHS approved Petitioner for FAP benefits beginning June 6, 2024.
8. On July 10, 2024, Petitioner requested a hearing to dispute the FAP benefit application denial.

### **CONCLUSIONS OF LAW**

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 Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute a denial of FAP benefits. Exhibit A, pp. 3-4. It was not disputed that Petitioner applied for FAP benefits on [REDACTED] 2024. MDHHS testified that Petitioner's application was denied due to Petitioner's failure to be interviewed.

For FAP benefits, MDHHS must conduct a telephone interview before approving benefits.<sup>1</sup> BAM 115 (January 2024) p. 20. Interviews must be scheduled promptly to meet standards of promptness. *Id.*, p. 23. If a client misses an interview appointment, MDHHS is to send a Notice of Missed Interview advising a client that it is his/her responsibility to request another interview date. *Id.* If the client calls to reschedule, the interview should be held no later than the 30<sup>th</sup> day after application, if possible. *Id.* MDHHS is to not deny the application if the client has not participated in a scheduled initial interview until the 30<sup>th</sup> day after the application. *Id.*, p. 6 and 18.

MDHHS testified it called Petitioner on May 17, 2024, and left a voicemail after Petitioner did not answer.<sup>2</sup> Petitioner called MDHHS on May 29, 2024, and MDHHS scheduled Petitioner for an interview on June 5, 2024.<sup>3</sup> Petitioner participated in the interview resulting in FAP eligibility beginning June 6, 2024: the same date Petitioner apparently reapplied for FAP benefits.

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<sup>1</sup> In some circumstances, an in-person interview must be conducted. BAM 115 (January 2024) p. 1. Such circumstances are not relevant to the present case.

<sup>2</sup> Petitioner testified her phone dropped the call. Petitioner also denied receiving a voicemail.

<sup>3</sup> MDHHS testified it mailed Petitioner notice of the appointment.

MDHHS contended the above circumstances justified denying Petitioner's [REDACTED] 2024 application, and issuing benefits beginning June 6, 2024. Three reasons justify otherwise.

First, MDHHS acknowledged not sending written notice of the application denial. Upon certification of eligibility results, the MDHHS database should automatically notify the client in writing of positive and negative actions by generating the appropriate notice of case action. BAM 220 (November 2023) p. 3. A notice of case action must specify the following: the action(s) being taken by MDHHS, the reason(s) for the action, the specific manual item which cites the legal base for an action or the regulation or law itself, an explanation of the right to request a hearing, and the conditions under which benefits are continued if a hearing is requested. *Id.*, pp. 2-3. Because MDHHS did not send written notice of application denial, the denial cannot be affirmed.

Secondly, MDHHS failed in its requirement to warn Petitioner of closure. If Petitioner missed an interview, MDHHS was required to send a Notice of Missed Interview. The purpose of the form is to warn Petitioner that application denial will occur unless an application interview is rescheduled. MDHHS testimony acknowledged that it did send Petitioner notice warning of denial.

Thirdly, MDHHS failed in its obligation to reschedule Petitioner for an interview before the 30<sup>th</sup> day after application. MDHHS acknowledged that Petitioner called on the 26<sup>th</sup> day after applying for FAP benefits. MDHHS failed to explain why it was not possible to schedule Petitioner for an interview in the three business days before the 30<sup>th</sup> day of the application.

Given the evidence, MDHHS improperly denied Petitioner's application for FAP benefits dated [REDACTED] 2024. As a remedy, Petitioner is entitled to a processing of the application.

### **DECISION AND ORDER**

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly denied Petitioner's applications for FAP benefits. It is ordered that MDHHS commence the following actions within 10 days of the date of mailing of this decision:

- (1) Reregister and process Petitioner's FAP benefit application dated [REDACTED] 2024, subject to the finding that Petitioner did not fail to be interviewed; and
- (2) Issue supplements and notice, if any, in accordance with policy.

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

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**  
Tara Roland 82-17  
Wayne-Greenfield/Joy-DHHS  
8655 Greenfield  
Detroit, MI 48228  
**MDHHS-Wayne-17-hearings@michigan.gov**

**Interested Parties**  
BSC4  
M. Holden  
N. Denson-Sogbaka  
B. Cabanaw  
MOAHR

**Via-First Class Mail :**

**Petitioner**  
[REDACTED]  
[REDACTED], MI [REDACTED]