



GRETCHEN WHITMER
GOVERNOR

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

MARLON BROWN
DIRECTOR

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Date Mailed: October 11, 2024
MOAHR Docket No.: 24-009818
Agency No.: ██████████
Petitioner: ██████ ██████

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 1, 2024, from Lansing, Michigan. ██████ ██████ the Petitioner, appeared on his own behalf. The Department of Health and Human Services (Department) was represented by Melissa Stanley, Hearings Facilitator (HF).

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-23.

ISSUE

Did the Department properly determine Petitioner's eligibility for Food Assistance Program (FAP)?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Petitioner's FAP case was due for Redetermination in September 2022.
2. On August ██████ 2022, a Redetermination was issued to Petitioner with a due date of August 24, 2024. (Exhibit A, pp. 7-9)
3. On September ██████ 2022, Petitioner submitted the Redetermination online at 6:31 pm. (Exhibit A, pp. 10-13)
4. Petitioner's FAP benefits closed effective October 1, 2022. (Exhibit A, p. 16)

5. On January █ 2023, Petitioner reapplied for FAP. (Exhibit A, p. 13)
6. On January █ 2023, it was discovered that the Redetermination form submitted September █ 2022 was never processed. It was also noted that an interview would not have been required because Petitioner receives Supplemental Security Income (SSI) benefits. (Exhibit A, pp. 1 and 18)
7. On February █ 2023, an Appointment Notice was issued to Petitioner scheduling an appointment for February █ 2023. (Exhibit A, pp. 14-15)
8. On February █ 2023, the Department called Petitioner and left a voicemail. (Exhibit A, p. 18)
9. On March █ 2023, Petitioner called the Department regarding the missed interview. (Exhibit A, p. 18)
10. On July █ 2024, Petitioner called the Department to ask about FAP benefits. (Exhibit A, p. 18)
11. On July █ 2024, the FAP case was closed based on a failure to complete the interview process but no written notice of case action was issued to Petitioner. (Exhibit A, pp. 1 and 18)
12. On August █ 2024, Petitioner called the Department to ask about FAP benefits. (Exhibit A, p. 18)
13. On August 26, 2024, Petitioner requested a hearing contesting the Department's actions. (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.

Regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in Mich Admin Code, R 792.10101 to R 792.10137 and R 792.11001 to R 792.11020. Rule 792.11002(1) provides as follows:

An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance is denied or is not acted upon with reasonable promptness, has received notice of a suspension or reduction in benefits, or exclusion from a service program, or has experienced a failure of the agency to take into account the recipient's choice of service.

BAM 600, provides that a request for hearing must be received in the Department local office within 90 days of the date of the written notice of case action. BAM 600, (June 1, 2024), p. 6. However, in this case, no written notice of case action was issued to Petitioner regarding the eligibility determination for the September 2022 Redetermination nor when the January 26, 2023 re-application for FAP was denied. Accordingly, there is no written notice of case action to start a 90-day timeframe for when the hearing request had to be filed.

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of necessary forms. Bridges Administrative Manual (BAM) 105 (April 1, 2022), p. 9.

The Department must periodically re-determine or renew an individual's eligibility for active programs. The redetermination/renewal process includes thorough review of all eligibility factors. Redetermination, renewal, semi-annual and mid-certification forms are often used to re-determine eligibility of active programs. BAM 210 (April 1, 2022), p. 1.

In order to receive uninterrupted FAP benefits (benefits available on his/her scheduled issuance date), the client must file the redetermination through MI Bridges or file either a MDHHS-1010, Redetermination and MDHHS-1010-FAP, MDHHS-1171, Assistance Application and MDHHS-1171-FAP supplement, or a signed MDHHS-1010-FAP, FAP 1010 supplemental filing form, by the fifteenth of the redetermination month. BAM 210, p. 16.

Any FAP redetermination form not submitted timely (see above) has the same processing timeframe as an initial application (30 days from the date the redetermination was filed. BAM 210, p. 17.

The group loses its right to uninterrupted FAP benefits if it fails to do any of the following: file the FAP redetermination by the timely filing date; participate in the scheduled interview; submit verifications timely, provided the requested submittal date is after the timely filing date. BAM 210, p. 22.

For FAP, benefits stop at the end of the benefit period unless a redetermination is completed, and a new benefit period is certified. If the client does not begin the

redetermination process, the benefit period is allowed to expire. The redetermination process begins when the client files a MDHHS-1171, Assistance Application and MDHHS 1171-FAP, Supplement- Food Assistance Program; MDHHS-1010, Redetermination and MDHHS-1010-FAP; MDHHS-1171, filing form; DHS-2063B, Food Assistance Benefits Redetermination Filing Record. BAM 210, p. 4.

If the redetermination packet is not logged in by the last working day of the redetermination month, Bridges automatically closes the EDG. A DHS-1605 is not generated. BAM 220, p. 14.

The BAM 210 policy also addresses subsequent processing. 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. Proceed as follows if the client takes the required action within 30 days after the end of the benefit period: • Re-register the redetermination application using the date the client completed the process. • If the client is eligible, prorate benefits from the date the redetermination application was registered. BAM 210, p. 22. Several examples are outlined in the policy. Example 3 addresses late filing of a Redetermination after the close of the benefit period: • Client has a redetermination due for February with the certification period ending February 28. • On February 28, case closes for failure to return the MDHHS 1010 and program specific supplement. • On March 10, client returns completed MDHHS-1010 and program specific supplement. • Client must complete a new application for FAP since they returned the completed MDHHS-1010 and program specific supplement after the end of the benefit period. BAM 210, p. 23.

The BAM 210 policy does not appear to address electronic submission of a redetermination form after the close of regular business hours. However, the BAM 110 policy addressing application filing and registration does address electronic submissions. Specifically, if the application is filed electronically after close of business (such as weekends, holidays, or after 5 p.m. EST on business days), the date of application is the following business day. BAM 110, April 1, 2022, p. 6.

Upon certification of eligibility results, Bridges automatically notifies the client in writing of positive and negative actions by generating the appropriate notice of case action. BAM 220, October 1, 2022, p. 2

On Friday September █ 2022, Petitioner submitted the Redetermination online at 6:31 pm. (Exhibit A, pp. 10-13). This was after the close of regular business hours, therefore, the redetermination would be considered as received the next business day, which would have been Monday October █ 2022. Petitioner's FAP case was due for redetermination by the end of September 2022. Pursuant to the BAM 210 policy, the FAP case automatically closed effective October 1, 2022 and Petitioner would have to complete a new application for FAP since he returned the redetermination after the end of the benefit period.

On January █ 2023, Petitioner reapplied for FAP. (Exhibit A, p. 13). On February █ 2023, an Appointment Notice was issued to Petitioner scheduling an appointment for

February ■ 2023. (Exhibit A, pp. 14-15). On February ■ 2023, the Department called Petitioner and left a voicemail. (Exhibit A, p. 18). On March ■ 2023, Petitioner called the Department regarding the missed interview. (Exhibit A, p. 18). There was no evidence that the Department called Petitioner back to complete the interview or that the application had been denied at that time.

On July ■ 2024, Petitioner called the Department to ask about FAP benefits. (Exhibit A, p. 18). On July ■ 2024, the FAP case was closed based on a failure to complete the interview process, but no written notice of case action was issued to Petitioner. (Exhibit A, pp. 1 and 18). BAM 220 policy requires written notification be issued upon certification of eligibility results.

Overall, the evidence supports the automatic closure of the prior FAP case effective October 1, 2022 because the redetermination was not submitted by the end of regular business hours on the last day of the redetermination month. However, evidence does not support that the denial of the January ■ 2023 application was in accordance with policy.

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 January ■ 2023 application for FAP.

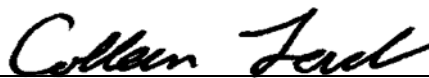
DECISION AND ORDER

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. Redetermine Petitioner's eligibility for FAP for the January ■ 2023 application in accordance with Department policy.

CL/dm



Colleen Lack
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
Elisa Daly
Saginaw County DHHS
**MDHHS-Saginaw-
Hearings@michigan.gov**

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DensonSogbakaN

BSC2HearingDecisions

MOAHR

Via-First Class Mail :

Petitioner
[REDACTED]
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