



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

MARLON I. BROWN, DPA
DIRECTOR

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██████████, MI ██████████

Date Mailed: November 7, 2024
MOAHR Docket No.: 24-010492
Agency No.: ██████████
Petitioner: ██████ ██████

ADMINISTRATIVE LAW JUDGE: Caralyce M. Lassner

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 by telephone on October 31, 2024. Petitioner appeared and represented himself. Petitioner's mother, ██████ ██████ was present as a witness on behalf of Petitioner. The Department of Health and Human Services (Department) was represented by Jade Stovall, Assistance Payments Worker.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefits for failing to complete the redetermination 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. Petitioner was an ongoing recipient of FAP benefits.
2. On July 5, 2024, the Department sent Petitioner a redetermination application with a due date of July 25, 2024 and notification that a redetermination interview was scheduled for August 1, 2024 at 3:30 p.m. (Exhibit A, pp. 7 – 13).
3. On July 22, 2024, the Department received Petitioner's completed redetermination application. (Exhibit A, pp. 15 – 19).

4. On August 1, 2024, the Department did not call Petitioner for the scheduled interview and sent Petitioner a notice that it rescheduled Petitioner's interview to August 8, 2024 at 11:45 a.m.
5. On August 8, 2024, the Department called Petitioner for his interview but was unable to reach him. (Exhibit A, p. 29, Entry 51).
6. On August 8, 2024, the Department issued a missed appointment notice to Petitioner and instructed Petitioner to call the Department to reschedule the interview. (Exhibit A, p. 21).
7. On August 20, 2024, Petitioner called the Department and requested to reschedule his interview. (Exhibit A, p. 29, Entry 52).
8. On September 6, 2024, the Department called Petitioner to complete the interview but was unable to reach him. (Exhibit A, p. 29, Entry 54).
9. On September 6, 2024, the Department issued a Notice of Case Action (NOCA) to Petitioner, closing Petitioner's FAP case effective September 1, 2024, for failure to complete the redetermination interview. (Exhibit A, pp. 23 – 24).
10. On September 13, 2024, the Department received a request for hearing from Petitioner regarding closure of his FAP case. (Exhibit A, p. 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 requested a hearing to dispute the closure of his FAP case. The Department closed Petitioner's FAP case effective September 1, 2024 for failure to complete the redetermination interview.

When a group is actively receiving FAP benefits, the Department must periodically redetermine or renew an individual's eligibility for active programs. BAM 210 (July 2024), p. 1. For FAP groups such as Petitioner's, the redetermination process includes a required interview. BAM 210, pp. 3, 5, 21 – 22. For FAP, if a client misses the

interview appointment, Department is to send a Notice of Missed Appointment advising the client that it is their responsibility to reschedule the interview. BAM 115 (May 2024), p. 23. If the client calls to reschedule, the interview should be scheduled prior to the 30th day, if possible. BAM 115, p. 23. Benefits stop at the end of the benefit period unless a redetermination is completed, and a new benefit period is certified. BAM 210, p. 3.

In this case, Petitioner was initially scheduled for a redetermination interview for August 1, 2024. (Exhibit A, p. 15). The Department testified that it did not attempt to call Petitioner on August 1, 2024 because it did not have time to complete the interview, and sent Petitioner a notice that day that the interview was rescheduled to August 8, 2024 at 11:45 a.m. The Department testified that it attempted to contact Petitioner for his interview on August 8, 2024 but was unable to reach him. Petitioner acknowledged that he received the notice of the rescheduled interview prior to August 8, 2024 and did not dispute that the Department called him on August 8, 2024, but testified that it did not call him until after 3 p.m. and he missed the Department's call.

Because it did not reach Petitioner on August 8, 2024, the Department sent a Notice of Missed Appointment to him that day, which stated in pertinent part "it is now your responsibility to reschedule the interview . . . before 8/31/2024 or your application/redetermination will be denied." (Exhibit A, p. 21). While Petitioner had a responsibility to complete the redetermination phone interview if he wanted his benefits to continue, the evidence established that he requested to reschedule his missed redetermination interview on August 20, 2024, which was before the NOCA was issued or the effective date of his FAP closure, but was not given a new date and time that day and was told that the Department would call him to reschedule. (Exhibit A, pp. 23, 29, Entry 52). The Department could not explain why a new date and time for the interview were not provided to Petitioner on August 20, 2024. Petitioner did not receive a call or rescheduled interview date and time, and the Department did not have any record of anyone attempting to contact Petitioner to reschedule his interview, prior to the expiration of his benefits period on August 31, 2024. The Department testified that it next attempted to contact Petitioner on September 6, 2024 to complete the interview but was unable to reach him. (Exhibit A, p. 29, Entry 54).

Petitioner was able and willing to participate in the redetermination interview and requested a rescheduled interview prior to expiration of his FAP benefits. The Department did not attempt to reschedule Petitioner's redetermination interview when he requested to do so prior to expiration of his FAP benefits. Therefore, the Department did not establish that it acted in accordance with Department 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 failed to contact Petitioner to reschedule his redetermination interview when he requested to do so before expiration of his certification period.


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. Reschedule Petitioner's redetermination interview;
2. Redetermine Petitioner's eligibility for FAP benefits effective September 1, 2024 ongoing;
3. If Petitioner is eligible for any supplemental FAP benefits, issue supplemental payments to Petitioner for any FAP benefits he was eligible to receive but did not, from September 1, 2024 ongoing; and
4. Notify Petitioner of its decision in writing.

CML/nr



Caralyce M. Lassner
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

Denise Key-McCoggle
Wayne-Greydale-DHHS
27260 Plymouth Rd
Redford, MI 48239

MDHHS-Wayne-15-Greydale-Hearings@michigan.gov

Interested Parties

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

Via-First Class Mail :

Petitioner

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