



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

MARLON I. BROWN, DPA
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: October 31, 2024
MOAHR Docket No.: 24-010996
Agency No.: [REDACTED]
Petitioner: [REDACTED] [REDACTED]

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 24, 2024. Petitioner was present and unrepresented. The Department of Health and Human Services (Department) was represented by Dequindre Williamson, Assistance Payment Supervisor.

ISSUE

Did the Department properly deny Petitioner's [REDACTED] [REDACTED] 2024 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 [REDACTED] [REDACTED] 2024, Petitioner applied for FAP.
2. On August 19, 2024, the Department sent Petitioner an Appointment Notice, notifying him that he would be called for a FAP interview on August 28, 2024 between 9:30 am and 11:30 am. (Exhibit A, p. 6)
3. On August 28, 2024, the Department sent Petitioner a Notice of Missed Interview notifying him that he had missed his scheduled FAP interview, and it was his responsibility to reschedule the interview before September 17, 2024 or his FAP application would be denied. (Exhibit A, p. 7)

4. On September 18, 2024, the Department set Petitioner a Notice of Case Action notifying him that his FAP application was denied due to failure to complete the interview requirement. (Exhibit A, pp. 8-11)
5. On September 24, 2024, the Department received Petitioner's request for hearing disputing the denial of FAP.

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.

The Department denied Petitioner's FAP application due to his failure to complete the interview process. An interview is required before denying FAP assistance. BAM 115 (May 2024), p. 18. For FAP, the Department conducts a telephone interview at application. BAM 115, pp. 20, 22. If clients miss the first FAP scheduled interview appointment, the Department sends a DHS-254, Notice of Missed Interview, notifying them that it their responsibility to request another interview. BAM 115, p. 23. If the client fails to reschedule or misses the rescheduled interview, the application is denied on the 30th day. BAM 115, pp. 6, 18, 23, 34.

In this case, Petitioner acknowledges receiving the appointment notice scheduling a FAP interview on August 28, 2024 between 9:30 am and 11:30 am and that the number referenced on the notice was his correct number. However, he contends that he waited all morning for a call from the Department and none was received. The Department alleged that it attempted to call Petitioner twice, once at 10:21 am and again at 10:23 am, but the call automatically dropped and the Department was unable to leave a voicemail message. However, the Department did not introduce the case comments containing the notes verifying that attempts to call Petitioner were made, and Petitioner denied receiving a call or having had any issues with receiving calls. The Department established that it sent Petitioner a Notice of Missed Appointment on August 28, 2024, notifying him that he had missed his FAP interview appointment, and it was now his responsibility to reschedule the interview. While Petitioner denied receiving this notice, the Department further alleged that there was another call to Petitioner on August 29, 2024, which Petitioner did not respond to, resulting in the Department leaving a voicemail message for Petitioner. Petitioner denied receiving this voicemail message,

and the Department's testimony about the circumstances resulting in the rescheduled interview, again based on case comments not entered into evidence, was inconsistent with Petitioner's testimony. Based on the evidence presented, the Department failed to establish that it called Petitioner to conduct a FAP phone interview 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 did not act 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. Reprocess Petitioner's [REDACTED] 2024 FAP application;
2. If eligible, supplement Petitioner for any FAP benefits he was eligible to receive but did not from August 18, 2024 ongoing; and
3. Notify Petitioner in writing of its decision.

ACE/nr



Alice C. Elkin

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
Tracey Jones
Oakland County Southfield District III
25620 W. 8 Mile Rd
Southfield, MI 48033
MDHHS-Oakland-6303-Hearings@michigan.gov

Interested Parties

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

Via-First Class Mail :

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