

BEFORE THE OFFICE OF STATE ADMINISTRATIVE HEARINGS
STATE OF GEORGIA

██████████,
Petitioner,
v.
DEPARTMENT OF HUMAN SERVICES,
DIVISION OF FAMILY AND CHILDREN
SERVICES,
Respondent.

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: Docket No.
: OSAH-DFCS-FSP-██████████-KENNEDY
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: Agency Reference No. ██████████
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INITIAL DECISION

I. Introduction

Petitioner requested a fair hearing in response to Respondent's termination of Petitioner's Food Stamp benefits effective May 31, 2013. For the reasons given below, Respondent's action is **AFFIRMED**.

II. Findings of Fact

1.

Respondent approved Petitioner to receive benefits through May 31, 2013.

2.

As the end of Petitioner's period of eligibility grew closer, Respondent scheduled a telephone interview to determine Petitioner's continued eligibility for benefits for June, 2013 and on-going. The interview was scheduled for 8:00 a.m. on May 1, 2013. However, Petitioner did not return his completed review form prior to the scheduled interview time. Accordingly, Respondent did not attempt to contact Petitioner at that time.

3.

On May 2, 2013, Respondent received Petitioner's completed Food Stamp review form. Respondent subsequently rescheduled Petitioner's telephone interview for 11:00 a.m. on May 17, 2013 and mailed Petitioner notice of the appointment time. Petitioner received the appointment letter and was aware of the appointment.

4.

On May 17, 2013, at approximately 11:00 a.m., Respondent called Petitioner, but received no answer. Respondent's representative left a voicemail message for Petitioner regarding the missed appointment. Respondent also mailed Petitioner a notice advising him that his benefits would be terminated effective May 31, 2013, if he did not contact his caseworker to reschedule the missed appointment. Respondent did not hear from Petitioner on or before May 31, 2013. Therefore, on May 31, Respondent sent Petitioner a computer-generated notification that his benefits had been terminated.

5.

Petitioner contacted Respondent on June 10, 2013 and requested a fair hearing regarding the termination of his benefits. Petitioner, as part of his request for a fair hearing, stated that the benefits had been terminated in error and that no one had called him at his scheduled appointment time.

6.

On June 11, 2013, Respondent called Petitioner to discuss his hearing request. Respondent received no answer and left a voicemail message at the same number that Respondent had called on May 17, 2013. Respondent's message advised Petitioner that Respondent believed Petitioner's benefits had been terminated correctly and that he could submit a new application for benefits. Within 15 minutes Petitioner returned Respondent's telephone call. At that time, Respondent advised Petitioner that someone had called him at his scheduled appointment time on May 17. Petitioner then explained to Respondent that he must have missed his telephone appointment because he had traveled to [REDACTED] that day for work and he sometimes does not have cellular reception in that area.

7.

On June 14, 2013, Petitioner submitted a new application for benefits. Petitioner's application is pending. Although Petitioner provided his most recent paystubs, as requested, Respondent has been unable to locate them. Accordingly, Petitioner has agreed to bring another copy of his paystubs to Respondent. Upon receipt of the second copy of paystubs, Respondent anticipates processing Petitioner's application and approving benefits retroactively to June 14, 2013. Petitioner is requesting that he receive

benefits for the period of June 1 through June 13, 2013 as well because he believes his benefits were terminated in error. Additionally, Petitioner has requested that all of his interviews be in-person, rather than by telephone, to avoid any issues in the future since Petitioner travels to [REDACTED] often for work. Respondent advised Petitioner that he has a right to request a face-to-face interview upon receipt of any scheduled telephone interview appointment. He also has the right to come to Respondent's office at the scheduled appointment time, rather than waiting to be contacted by telephone.

8.

Petitioner admits that he was aware of his scheduled appointment time on May 17. He also admits that he was aware he did not speak to anyone on May 17, probably because of the unreliable cellular reception in the area where he was that day. Nevertheless, he did not contact Respondent about the missed interview or his review until after he received the termination notice.

III. Conclusions of Law

1.

A Food Stamp Assistance Unit (AU) is approved to receive benefits for a specified period of time referred to as the Period of Eligibility (POE). In the month prior to the expiration of the current POE, an AU's circumstances are reviewed to determine the AU's eligibility to receive benefits for a new POE. The review process includes the filing of an application, participation in an interview, and providing required verification. Food Stamp Manual §§ 3105, 3710.

2.

For review purposes, an interview is typically scheduled as a telephone interview, unless the AU requests a face-to-face interview. Food Stamp Manual § 3710. Accordingly, Respondent properly scheduled a telephone interview in this matter for May 1, 2013. The interview did not take place that day because Respondent had not yet received Petitioner's completed review application. Upon receipt of the completed review application on May 2, 2013, Respondent rescheduled Petitioner's telephone interview for May 17, 2013. Petitioner was aware of this appointment, but did not receive a call

that day probably because he was working in an area that has unreliable cellular reception.

3.

Respondent's policy manual provides that if an AU has submitted a timely review application, but has not completed an interview and has not contacted the county office by the last day of the current POE, then the review application is denied by the end of the last month of the current POE. Food Stamp Manual § 3710.

4.

Respondent's policy manual further provides that if an AU fails to attend an interview, but contacts the county office to request another interview, then the county must reschedule the interview. Food Stamp Manual § 3710. Thus, if Petitioner had contacted Respondent prior to May 31, 2013 to advise the office that he was unable to participate in the May 17, 2013 interview because he was working in an area that had poor cellular reception then Respondent could have rescheduled Petitioner's interview or obtained the necessary information at that time to complete Petitioner's review and determine his eligibility for June, 2013 and on-going. However, Petitioner did not contact Respondent until June 10, 2013, after he received the notice of termination.

5.

Petitioner knew about his appointment. He also knows that he was unable to receive a call because of poor cellular reception. Despite this, Petitioner never contacted Respondent to reschedule his appointment, or to complete his review.

IV. Decision

Based on the record as a whole, Respondent's action terminating Petitioner's benefits effective May 31, 2013 for failure to complete his review is **AFFIRMED**.

This 5th day of August, 2013.

Ana Kennedy
Administrative Law Judge