

**BEFORE THE OFFICE OF STATE ADMINISTRATIVE HEARINGS  
STATE OF GEORGIA**

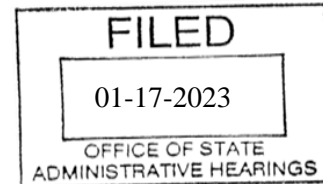
N [REDACTED] M [REDACTED]  
Petitioner,

v.

**DHS, DIVISION OF FAMILY AND  
CHILDREN SERVICES,  
Respondent.**

Docket No.: [REDACTED]  
[REDACTED]-OSAH-DFCS-TANF-7-Howells

Agency Reference No.: [REDACTED]



**FINAL DECISION  
ORDER OF DISMISSAL**

Petitioner requested a hearing to contest Respondent’s decision to deny her application for Temporary Assistance for Needy Families (TANF). The hearing was conducted on December 21, 2022. Petitioner appeared and represented herself. Theresa Osborne appeared on behalf of Respondent. For the reasons stated below, Petitioner’s request for a hearing is **DISMISSED** as untimely and Respondent’s decision that prompted the appeal is **AFFIRMED**.

**Findings of Fact**

1.

Petitioner applied for TANF benefits on September 12, 2022. An appointment letter was mailed to Petitioner on September 14, 2022, setting Petitioner’s interview for September 22, 2022. (Ex. R-1; Testimony of Theresa Osborne.)

2.

Petitioner denies receiving the appointment letter. She has elected to receive her notices via email only.<sup>1</sup> Her mailbox is not attached to her apartment building. Rather, it is located at the front of the apartment complex. Petitioner does not regularly check her mailbox, but she does

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<sup>1</sup> According to Ms. Osborne, the agency sends notices via email and regular mail, even if an applicant requests only email notice. (Testimony of Theresa Osborne.)

intermittently check it. Nevertheless, testified that she did not receive the appointment letter via email or via mail. She learned of her appointment time when she called the DFCS office to inquire about her application. (Testimony of Petitioner.)

3.

Petitioner's telephone interview was scheduled for 3:00 p.m., on September 22, 2022. Petitioner waited for the phone call for her interview, beginning at 8:00 a.m. and she continued waiting until almost 4:00 p.m. She never received the phone call. She called the caseworker in the afternoon of September 22, 2022, but the caseworker's voicemail was full. On September 23, 2022, Petitioner sent a text message to the caseworker's telephone number, asking the caseworker to call her. She did not receive a phone call from the caseworker. (Testimony of Petitioner; Ex. P-1.)

4.

The caseworker documented that she tried to contact Petitioner for her interview, but there was no answer and no voicemail. Petitioner's application for TANF benefits was denied on October 3, 2022 and notice of the denial was mailed that day. (Testimony of Theresa Osborne; Ex. R-1.)

5.

Petitioner denied receiving notice of the denial via email or mail. She made calls to the DFCS Office and learned the hours that the office was open. On November 15, 2022, she went to the office and a caseworker printed out a hearing request form. Petitioner completed the hearing request form that day. (Testimony of Petitioner; Ex. R-3.)

6.

Respondent's policy states, in pertinent part, as follows: "DFCS must receive the applicant's or recipient's fair hearing request (orally or in writing) within 30 days of the date of a

decision notice.” The policy does not include any exceptions or mechanisms to pause the deadline to request a hearing. Because the Notice of Decision was issued on October 3, 2022 and Petitioner did not request a hearing until November 15, 2022, Respondent considers her hearing request as untimely. (Ex. R-2; Testimony of Theresa Osborne.)

### **Conclusions of Law**

1.

The federal regulations governing TANF cases specifically allow Respondent to impose a statute of limitations or, stated differently, to limit the time in which an applicant or recipient may appeal the agency’s decision. 45 C.F.R. § 205.10(a)(5)(iii) (“The claimant shall be provided reasonable time, not to exceed 90 days, in which to appeal an agency decision.”); see also Withey v. Perales, 752 F. Supp. 569, 573 (W.D.N.Y. 1990) (upholding the New York statute of limitations to appeal an agency decision regarding AFDC benefits). Furthermore, the regulation does not provide any exceptions or mechanisms to toll or stop the clock. Id.

2.

Here, Georgia has implemented a 30-day statute of limitations within which an applicant or recipient must appeal the agency’s decision regarding TANF benefits. The undersigned recognizes that Petitioner did not receive the interview phone call, she made attempts to contact the caseworker, and she did not receive the notice of the decision; however, she filed her appeal outside of the 30-day limit. Neither the federal regulation nor Respondent’s policy provide any exceptions or mechanisms to pause the deadline to file an appeal. Accordingly, Petitioner’s appeal is untimely.

### **Decision**

For the above and foregoing reasons, Petitioner’s appeal is untimely and is hereby

**DISMISSED.** The agency decision that prompted the appeal is **AFFIRMED.**

**SO ORDERED**, this 17th day of January, 2023.

*Stephanie M. Howells*

**Stephanie M. Howells**  
**Administrative Law Judge**

