

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No. 201117344
Issue No. 3008
Case No. [REDACTED]
Hearing Date: March 3, 2011
SSPC East (98)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the claimant's request for a hearing. After due notice, a telephone hearing was held on March 3, 2011. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED] and [REDACTED], appeared and testified.

ISSUE

Whether DHS properly denied Claimant's application dated 11/1/10 Requesting Food Assistance Program (FAP) benefits due to a failure by Claimant to be interviewed.

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 11/1/10, Claimant applied online for FAP benefits.
2. On 11/1/10, DHS mailed Claimant an Appointment Notice (Exhibit 1) informing Claimant of a telephone interview to be held on 11/16/10 at 11:00 a.m.
3. On 11/16/10 at 10:57 a.m., Claimant's specialist called Claimant concerning an interview but Claimant's telephone was not receiving incoming telephone calls.
4. On 11/30/10, DHS denied Claimant's application due to Claimant's failure to participate in a FAP benefit interview.
5. On 1/21/11, Claimant requested a hearing disputing the denial of FAP benefits.

CONCLUSIONS OF LAW

The Food Assistance Program (formerly known as the Food Stamp Program) is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department of Human Services (formerly known as the Family Independence Agency) administers the FAP program pursuant to Michigan Compiled Laws 400.10, *et seq.*, and Michigan Administrative Code R 400.3001- 3015. DHS regulations are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RT). Updates to DHS regulations are found in the Bridges Policy Bulletin (BPB).

For FAP benefits, DHS must conduct a telephone interview at application before approving benefits. BAM 115 at 13. If the client misses an interview appointment, Bridges sends a DHS-254, Notice of Missed Interview, advising the client that it is the client's responsibility to request another interview date. *Id.* at 15. Bridges sends a notice only after the first missed interview. *Id.* If the client calls to reschedule, DHS is to set the interview prior to the 30th day, if possible. *Id.* If the client failed to reschedule or miss the rescheduled interview, DHS is to deny the application on the 30th day. *Id.*

In the present case, Claimant's application dated 11/1/10 was denied due to Claimant's failure to participate in a FAP interview within 30 days from the application date. DHS established that Claimant was mailed an Appointment Notice on 11/1/10 informing Claimant of a FAP interview appointment on 11/16/10 at 11:00 a.m. DHS records indicated that Claimant was contacted three minutes prior to her appointment time but Claimant did not answer the telephone call. DHS established waiting 30 days (from the application date) prior to denying Claimant's application and that all relevant procedures were followed in the denial.

Claimant made two arguments disputing the DHS denial. First, Claimant contended that her telephone was not functioning when DHS called and that Claimant did not intend to miss the interview. Claimant's testimony was very sincere on this issue. Nevertheless, Claimant's argument is an explanation but not an excuse for not participating in a FAP benefit interview.

Secondly, Claimant contended that she made several calls to DHS trying to reschedule the FAP interview but was never successful in contacting DHS due to various telephone problems by DHS. Claimant testified that she called DHS several times but received a message that there were some telephone issues which prevented Claimant from reaching her specialist. It was not disputed that Claimant did not reach her specialist until 12/15/10.

Claimant's testimony was sincere though the undersigned has difficulty assessing DHS with the blame in Claimant's inability to contact her specialist. An inability to receive telephone calls over several weeks would have been a very serious and memorable telephone problem for DHS. DHS testified that no such telephone issues occurred around the time of Claimant's application. A more likely explanation would be that Claimant may have called a wrong telephone number that Claimant was unaware that

an extension had to be inputted to reach her specific specialist or that Claimant's telephone was incapable of reaching DHS at the specific DHS phone number. It is found that the DHS telephone system was not to blame for Claimant's inability to reach DHS to reschedule her FAP interview.

Had Claimant been able to establish an ongoing DHS telephone problem, the undersigned may have found that DHS was to blame for Claimant's inability to reschedule her interview. As this was not established, it is found that DHS properly denied Claimant's application dated 11/1/10 requesting FAP benefits due to Claimant's failure to participate in a FAP benefit interview. As stated during the hearing, Claimant may reapply for FAP benefits at any time.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly denied Claimant's application dated 11/1/10 for FAP benefits due to Claimant's failure to participate in a FAP benefit interview. The actions taken by DHS are AFFIRMED.

Christian Gardocki

Christian Gardocki
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: 03/14/11

Date Mailed: 03/17/11

NOTICE: Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 60 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

CG/dj

cc:

