

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:



Reg. No.: 20146978
Issue No(s): 2006, 3008
Case No.: [REDACTED]
Hearing Date: November 20, 2013
County: Berrien

ADMINISTRATIVE LAW JUDGE: Darryl T. Johnson

HEARING DECISION

Following Claimant'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; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on November 20, 2013, from Lansing, Michigan. Participants on behalf of Claimant included Claimant, [REDACTED], and her Designated Hearing Representative (and daughter), [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Assistance Payments Supervisor, and [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly deny Claimant's application for Food Assistance Program (FAP) and Medical Assistance (MA) benefits?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Claimant applied for FAP and MA on August 20, 2013.
2. On August 28, 2013, the Department sent Claimant an appointment notice.
3. On [REDACTED], the Department attempted to complete a telephone interview with Claimant but the phone connection was interrupted and the interview was not completed.
4. On September 19, 2013, the Department denied Claimant's application.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

Claimant applied for FAP and MA benefits and, in an effort to assist the Claimant in completing the application, the Department called her on [REDACTED] to gather the information required by the application form. During the call, the Claimant was being prepared for surgery and the call was terminated before all the necessary information was obtained. That day, the Department sent her a "Notice of Missed Interview." Exhibit 4. Less than two weeks later, the Department sent her a "Notice of Case Action" informing her that her applications for MA and FAP were denied because the Department was unable to determine her eligibility. The reason entered in BRIDGES was that Claimant "failed to attend Food Assistance Intake Interview within 30 days of Application."

The Claimant testified credibly that she had left several messages for her case worker. The Claimant stated that she had her worker called on September 4, 2013, trying to reschedule the phone interview for a day other than the day of her surgery. BAM 115 obligates the Department to assist claimants in completing the application. "When help **cannot** be provided by phone call or letter within specified time frames, complete a home call within five workdays." Also, "For FAP, do **not** deny an application if the client has not participated in the **initial interview** until the **30th** day after the application date **even** if he/she has returned all required verifications." (All emphases in original.)

The testimony is convincing that the Claimant attempted to comply with the Department's requests. She tried to reschedule her interview to a day when she was not having surgery. Other than mailing a notice on the day of her surgery, the Department did not make an effort to assist her in completing the application. The Claimant left phone messages for her case worker in an effort to complete the application. Claimant participated in the interview to the best of her ability.


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 denied Claimant's application for FAP and MA benefits.

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. Re-register the Claimant's FAP and MA application and process it in accordance with Department policy.
2. Issue the Claimant a supplement for any benefits improperly not issued.


Darryl T. Johnson
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: November 26, 2013

Date Mailed: November 26, 2013

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

Michigan Administrative Hearing System (MAHS) 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. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request (60 days for FAP cases).

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

20146978/DTJ

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

DTJ/aca

cc:

