

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-20836
Issue No(s): 3001
Case No.: [REDACTED]
Hearing Date: February 4, 2014
County: DHS-SSPEC-WEST

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 February 4, 2014, from Lansing, Michigan. Participants on behalf of Claimant included the Claimant, [REDACTED]. Participants on behalf of the Department of Human Services (Department) included Eligibility Specialist [REDACTED].

ISSUE

Did the Department properly deny Claimant's Food Assistance Program (FAP) 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. On December 3, 2013 Claimant applied online for FAP and for Medical Assistance (MA).
2. The Department sent Claimant an Appointment Notice on December 3, 2013, informing Claimant that she was scheduled for a telephone appointment to discuss her application on December 10, 2013 at 4:00 p.m. Exhibit 1, Page 5.
3. Claimant was in jail from December 9, 2013 until January 1, 2014, and did not participate in the December 10, 2013 telephone interview.
4. The Department was unaware Claimant was in jail.
5. On December 10, 2013 the Department mailed a Notice of Missed Interview, instructing her that it was her responsibility to schedule an interview before January 2, 2014. Exhibit 1, Page 6.

6. On January 2, 2014, the Department mailed a Notice of Case Action to Claimant, informing her that she had been approved for MA, but denied FAP. Exhibit 1, Pages 8-13.
7. On January 2, 2014, Claimant went to the Department's office on Franklin Street in Grand Rapids and was told that her FAP application was denied.
8. On January 2, 2014, Claimant filed a hearing request.

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.

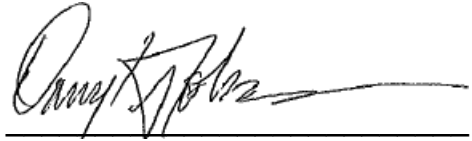
The facts are undisputed: Claimant did not attend the telephone interview on December 10, 2013, and she did not schedule another interview before January 2, 2014. Claimant testified that she was not allowed to leave the jail. Her testimony was quite confusing because she testified that she was allowed work release, but was not allowed to work, and she was not allowed to leave the jail even though she was allowed to go across the street from the jail. She was able to speak with her mother while she was on work release, and she testified that her mother showed her the Notice of Missed Interview. In any case, Claimant was in a "government-operated facility" as that is defined in BEM 265. There is no evidence that the jail in which she was incarcerated is authorized by the Food and Nutrition Service (FNS) to accept Food Assistance, and therefore Claimant was not eligible to receive FAP during her time of incarceration. Furthermore, because the Appointment Notice was mailed six days before she was sent to jail, presumably it was received in time for her to contact the Department and explain her circumstances before she was jailed.

The Claimant was scheduled for an interview. She did not attend. She was informed that she was to call and schedule an interview before January 2, 2014. She did not do that either. She therefore did not comply with the rules governing her eligibility.

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 acted in accordance with Department policy when it denied Claimant's application for FAP benefits because of his failure to attend, or to reschedule, the mandatory interview.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.



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

Date Signed: February 5, 2014

Date Mailed: February 6, 2014

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.

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/las

cc:

