

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

IN THE MATTER OF:

██████████
██████████
████████████████████

Reg. No.: 2014 31408
Issue No(s): 3000
Case No.: ██████████
Hearing Date: April 7, 2014
County: SSPC East 98

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 4-way hearing was held on April 7, 2014, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. An Interpreter, Said, from the Language Line served as an Arabic interpreter. Participants on behalf of the Department of Human Services (Department) included ██████████ ██████████, Assistance Payments Supervisor.

ISSUE

Did the Department properly deny the Claimant's 2/19/14 Food Assistance Application?

FINDINGS OF FACT

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

1. The Claimant applied for Food Assistance on 2/19/14.
2. In a telephone interview with the Department on 2/27/14, the Department alleged that the Claimant withdrew her hearing request, no interpreter was available for the call.
3. The Claimant requested a hearing on March 6, 2014 protesting the denial of the application for Food Assistance.

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.

Additionally, in this case the Department denied a Food Assistance application based upon a telephone interview with the Claimant. At the hearing, the Department was required to obtain an Arabic interpreter so the hearing could be conducted, as the Claimant speaks no English. The Department personnel who conducted the phone interview were not at the hearing. At the hearing, at the instruction and request of the undersigned, the Claimant was asked 3 times through the interpreter whether an interpreter, or someone who spoke Arabic was on the telephone interview the Claimant indicated that there was not. Based upon the evidence presented it is determined that the Department's acceptance of the withdrawal of Claimant's Food Assistance application was not proper as the Claimant speaks and understands no English and no one interpreted for the Claimant during the telephone interview on 2/27/14.

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

- did not act in accordance with Department policy when it accepted a withdrawal of the Claimant's 2/19/14 application for Food Assistance.
- failed to satisfy its burden of showing that it acted in accordance with Department policy when it accepted a withdrawal of the Claimant's application.

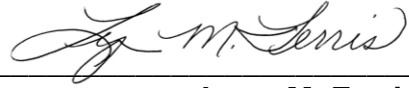
DECISION AND ORDER

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. The Department shall re-register the FAP application dated 2/19/14 and process the application.

2. The Department shall issue a Food Assistance supplement if it determines that the Claimant is otherwise eligible for FAP in accordance with Department Policy.



Lynn M. Ferris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: April 7, 2014

Date Mailed: April 7, 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

LMF/tm

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]