

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

IN THE MATTER OF:



Reg. No.: 14-002077
Issue No.: 3001
Case No.: [REDACTED]
Hearing Date: JUNE 11, 2014
County: WAYNE-DISTRICT 17

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 June 11, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and his Authorized Hearing Representative; [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly deny Claimant's application for 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 March 21, 2014, Claimant submitted an application for FAP benefits.
2. On April 7, 2014, the Department sent Claimant a Notice of Missed Interview instructing him to contact the Department by April 20, 2014, to have his FAP application interview rescheduled or his application would be denied. (Exhibit 1)
3. On April 14, 2014, the Department sent Claimant an Application Notice informing him that he was ineligible for FAP benefits because he failed to meet the interview requirements. (Exhibit 2)

4. On April 28, 2014, Claimant requested a hearing disputing the Department's actions.

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 273. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001 to .3015.

Additionally, the Department is to conduct an interview at application for FAP before approving benefits. BAM 115 (March 2014), p.18-19. Applicants are required to participate in the FAP interview process. If a client misses an interview appointment, the Department will send a Notice of Missed Interview, advising the client that it is now the client's responsibility to request another interview date. It sends a notice only after the first missed interview. If the client calls to reschedule, the Department will set the interview prior to the 30th day, if possible. If the client fails to reschedule or misses the rescheduled interview, the Department will deny the application on the 30th day. BAM 115, pp.22-23. The Department is not to deny an application if the client has not participated in a scheduled interview until the 30th day after the application date. BAM 115, p.17, 23.

In this case, in connection with his FAP application, the Department testified that on April 1, 2014, it sent Claimant an Appointment Notice instructing him to appear for an in person interview on April 7, 2014. The Department failed to produce the Appointment Notice at the hearing and Claimant testified that he never received the Appointment Notice. The Department stated that on April 7, 2014, it sent Claimant a Notice of Missed Interview informing him that he had until April 20, 2014, to reschedule the FAP interview or his application would be denied. The Department testified that it did not receive any communication from Claimant prior to April 20, 2014, rescheduling the FAP interview and his application was denied.

The Department initially stated that an Application Notice informing Claimant of the denial was not sent because the Notice of Missed Interview notified Claimant that his application would be denied if the FAP interview was not rescheduled. The Department later confirmed that on April 14, 2014, it sent Claimant an Application Notice informing him that he was ineligible for FAP benefits on the basis that he failed to complete the interview requirements. (Exhibit 2). The Department remained unable to clearly explain

why the Application Notice denying the application was sent prior to the 30th day of the application date. BAM 115, p.17. 23. At the hearing, Claimant and his AHR credibly testified that they both made several attempts to contact the Department via telephone and in person to reschedule the FAP interview but were unable to reach Claimant's Department case worker.

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 FAP application on the basis that he failed to meet the interview requirements.

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. Register and process Claimant's March 21, 2014, application for FAP benefits;
2. Issue supplement to Claimant for any FAP benefits that he was entitled to receive but did not from the application date, ongoing; and
3. Notify Claimant of its decision in writing.



Zainab Baydoun

Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **6/17/2014**

Date Mailed: **6/18/2014**

ZB / tlf

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, 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

cc:



