

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

IN THE MATTER OF:



Reg. No.: 14-004902
Issue No.: 3001
Case No.: [REDACTED]
Hearing Date: July 23, 2014
County: MACOMB-DISTRICT 12

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 July 23, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and his sister, [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Eligibility Specialist/Hearings Facilitator.

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 May 12, 2014, Claimant submitted an application for FAP benefits.
2. On May 13, 2014, the Department sent Claimant an Appointment Notice informing him that he had an application interview on May 23, 2014 at 10:00 AM. (Exhibit 1)
3. On May 13, 2014, the Department sent Claimant a Verification Checklist instructing him to submit requested verifications by May 23, 2014. (Exhibit 2)
4. On May 23, 2014, the Department sent Claimant a Notice of Missed Interview instructing him to contact the Department by June 11, 2014, to have his FAP application interview rescheduled or his application would be denied. (Exhibit 3)

5. On June 10, 2014, the Department sent Claimant a Notice of Case Action informing him that his FAP application had been denied on the basis that he failed to submit requested verifications by the due date. (Exhibit 4)
6. On June 11, 2014, Claimant submitted a hearing request 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.

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.

Additionally, verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (April 2014), p.1. To request verification of information, the Department sends a verification checklist (VCL) which tells the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. Although the client must obtain the required verification, the Department must assist if a client needs and requests help. If neither the client nor the Department can obtain the verification despite a reasonable effort, the Department is to use the best available information; and if no evidence is available, the Department is to use its best judgment. BAM 130, p. 3.

With respect to FAP cases, clients are given 10 calendar days to provide the verifications requested by the Department. Verifications are considered to be timely if received by the date they are due. BAM 130, pp.6-7. The Department sends a negative action notice when the client indicates a refusal to provide a verification or the time

period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130, p. 7.

In this case, the Department testified that because Claimant missed his FAP telephone interview scheduled for May 23, 2014 and failed to submit the requested verifications by the May 23, 2014, due date, it sent Claimant a Notice of Case Action informing him that his application had been denied. Although the Department testified that Claimant's application was denied on the basis that he did not complete the interview requirement, a review of the Notice of Case Action establishes that the reason for the intended action relied upon by the Department was a failure to return requested verifications. (Exhibit 4).

At the hearing, Claimant's sister testified that her brother did not receive the Appointment Notice and the VCL dated May 13, 2014, because Claimant had not moved into his new apartment yet. Claimant's sister stated that when completing the FAP application on May 12, 2014, it was anticipated that Claimant would be moving into the apartment at the address identified on the application, but that Claimant did not actually move into the apartment until May 18, 2014, and that he did not receive the documents from the Department.

Although Claimant may not have moved into the apartment until May 18, 2014, the Department acted properly by sending the Appointment Notice and the VCL to the address identified on the application.

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, as Claimant did not submit the requested verifications by the due date. Claimant was informed that he was entitled to submit a new application for FAP benefits and have his eligibility determined. Claimant was also informed that should he require assistance, he was entitled to have an Authorized Representative assigned to his case.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.



Zainab Baydoun

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

Date Signed: **7/29/2014**

Date Mailed: **7/30/2014**

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:

