

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201414341
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: January 7, 2014
County: Washtenaw County DHS

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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 January 7, 2014, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] [REDACTED] and [REDACTED] [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED] [REDACTED].

ISSUE

Whether the Department of Human Services (Department) properly denied Food Assistance Program (FAP) benefits for failing to cooperate with the eligibility determination process?

FINDINGS OF FACT

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

1. The Claimant was an ongoing Food Assistance Program (FAP) recipient.
2. On August 13, 2013, the Department sent the Claimant notice that he had been scheduled to participate in an interview on September 5, 2013, to determine his continued eligibility to receive Food Assistance Program (FAP) benefits.
3. On September 5, 2013, the Claimant did not participate in the interview, and the Department sent him a Notice of Missed Interview (DHS-254).
4. On October 16, 2013, the Claimant submitted an application for Food Assistance Program (FAP) benefits.
5. On November 1, 2013, the Department notified the Claimant that his Food Assistance Program (FAP) benefits would close as of December 1, 2013.

6. On November 1, 2013, the Department sent the Claimant a Verification Checklist (DHS-3503) with a due date of November 12, 2013.
7. On November 1, 2013, the Department sent the Claimant notice that he had been scheduled to participate in an in-person interview on November 8, 2013, to determine his eligibility for the Food Assistance Program (FAP).
8. On November 8, 2013, the Department sent the Claimant a Notice of Missed Interview (DHS-254).
9. On November 15, 2013, the Department sent the Claimant notice that he was ineligible for Food Assistance Program (FAP) benefits as of October 16, 2013, and ongoing for failure to provide the Department with information necessary to determine his eligibility to receive benefits.
10. The Department received the Claimant's request for a hearing on November 19, 2013, protesting the denial of Food Assistance Program (FAP) benefits.

CONCLUSIONS OF LAW

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.

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes the completion of necessary forms. Department of Human Services Bridges Assistance Manual (BAM) 105 (March 1, 2013), p 5. Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. Department of Human Services Bridges Assistance Manual (BAM) 130 (May 1, 2012), p 1. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level when it is required by policy, required as a local office option, or information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. BAM 130. The Department uses documents, collateral contacts, or home calls to verify information. BAM 130. A collateral contact is a direct contact with a person, organization, or agency to verify information from the client. BAM 130. When documentation is not available, or clarification is needed, collateral contact may be necessary. BAM 130.

The Department is required to conduct a telephone interview at application before approving Food Assistance Program (FAP) benefits. The Department will not deny the application if the client has not participated in the initial interview even if he/she has returned all verifications. The Food Assistance Program (FAP) redetermination must be completed by the end of the current benefit period so that the client can receive uninterrupted benefits by the normal issuance date. A Food Assistance Program (FAP) recipient loses the right to uninterrupted benefits for failure to participate in required interviews. Department of Human Services Bridges Administrative Manual (BAM) 130 (January 1, 2014), pp 17-18.

The Claimant was an ongoing Food Assistance Program (FAP) recipient when his case came up for a routine eligibility redetermination. The Department notified the Claimant that he had been scheduled for interviews for September 5, 2013, and November 8, 2013. Each time the Claimant did not attend his interview, the Department sent the Claimant a Notice of Missed Interview (DHS-254). The Department then sent the Claimant notice that his Food Assistance Program (FAP) benefits would close.

The Claimant argued that he complied with the November 1, 2013, Verification Checklist in a timely manner.

This Administrative Law Judge finds that the Claimant's compliance with the Verification Checklist is not relevant to the denial of benefits because his benefits were denied for failing to participate in required interview.

The Claimant argued that he received insufficient notice of the eligibility interviews to give him an opportunity to attend.

This Administrative Law Judge finds that the Claimant failed to establish that he did not receive adequate or timely notice of the interviews.

However, even if he did not receive notice of the interviews, the Department established that it provided him with Notice of Missed Interview (DHS-254) forms that instructed the Claimant that upon missing his interview, it became his responsibility to reschedule these interviews.

Based on the evidence and testimony available during the hearing, this Administrative Law Judge finds that the Claimant did not make a reasonable effort to reschedule the required eligibility interviews, and the Department properly applied its policies when it denied continued Food Assistance Program (FAP) benefits.

DECISION AND ORDER

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 closed the Claimant's Food Assistance Program (FAP) benefits.

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

/s/ _____
Kevin

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

Date Signed: January 9, 2014

Date Mailed: January 9, 2014

NOTICE OF APP EAL: 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

KS/hj

cc:

