

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-24241
Issue No(s): 2004; 3001
Case No.: [REDACTED]
Hearing Date: February 24, 2014
County: SSPC-EAST (98)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 three-way telephone hearing was held on February 24, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and Claimant's cousin/interpreter, [REDACTED] [REDACTED]. Participants on behalf of the Department of Human Services (Department or DHS) included [REDACTED], Assistant Payment Worker, and [REDACTED] [REDACTED] Assistant Payment Supervisor.

ISSUES

Did the Department properly deny Claimant's Food Assistance Program (FAP) application effective December 16, 2013?

Did the Department properly process Claimant's Medical Assistance (MA) 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. On December 16, 2013, Claimant applied for FAP benefits online. See Exhibit 1.
2. On December 16, 2013, the Department sent Claimant an Appointment Notice, scheduling Claimant for an interview on December 23, 2013. See Exhibit 1.
3. On December 23, 2013, the Department attempted to contact Claimant and the Claimant did not answer and a voicemail was left.

4. On December 23, 2013, the Department sent Claimant a Notice of Missed Interview, which informed Claimant that it is his responsibility to reschedule the interview before January 15, 2014 or his application will be denied. See Exhibit 1.
5. On January 15, 2014, the Department sent Claimant a Notice of Case Action notifying him that his FAP benefits were denied effective December 16, 2013, ongoing, due to his failure to complete the interview requirement. See Exhibit 1.
6. On January 28, 2014, Claimant filed a hearing request, protesting his FAP denial and MA denial. See Exhibit 1.

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 Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

MA application

Any person, regardless of age, or his/her authorized representative (AR) may apply for assistance. BAM 110 (July 2013), p. 4. Register a signed application or filing form, with the minimum information, within one workday for all requested programs. BAM 110, p. 19.

The Department determines eligibility and benefit amounts for all requested programs. BAM 105 (October 2013), p. 14. A DHS-1171 application for cash assistance (FIP/RCA/SDA) is an application for medical assistance (MA/RMA/AMP), even if medical assistance is not checked as a program being applied for on page 1 of the application. BAM 105, p. 14.

The standard of promptness (SOP) begins the date the department receives an application/filing form, with minimum required information. BAM 115 (July 2013), p. 15. For MA applications, the Department certifies the program approval or denial of the

application within 45 days. BAM 115, p. 15. However, there are exceptions to these benefits programs for processing times, which are described as follows: 90 days for MA categories in which disability is an eligibility factor. BAM 115, p. 16. The SOP can be extended 60 days from the date of deferral by the Medical Review Team. BAM 115, p. 16.

Moreover, if the group is ineligible or refuses to cooperate in the application process, the Department must certify the denial within the standard of promptness and also send a DHS-1605, Client Notice, or the DHS-1150, Application Eligibility Notice, with the denial reason(s). BAM 115, p. 23. If approved, the Department sends the DHS-1605 detailing the approval at certification of program opening. BAM 115, p. 23.

In this case, Claimant requested a hearing disputing his MA denial. See Exhibit 1. Claimant and his witness testified that he received third party assistance for his application due to his language barrier. Claimant and his witness testified that on December 16, 2013, he received assistance and that he applied for both MA and FAP benefits online. However, the Department testified that Claimant did not apply for MA benefits on December 16, 2013. The Department presented Claimant's submitted online application on December 16, 2013, which indicated that he only applied for FAP benefits. See Exhibit 1.

Based on the foregoing information and evidence, the Department properly determined that Claimant failed to apply for MA benefits on December 16, 2013. See BAM 105, p. 14; BAM 110, pp. 4 and 19; and BAM 115, pp. 15, 16, and 23. The Department presented credible evidence that Claimant did not apply for MA benefits on December 16, 2013. The evidence indicated that Claimant only applied for FAP benefits on December 16, 2013. See Exhibit 1.

FAP application

On December 16, 2013, Claimant applied for FAP benefits online. See Exhibit 1. On December 16, 2013, the Department testified that it attempted to contact the Claimant and left a voicemail. Claimant's testimony indicated that he did not receive a phone call on December 16, 2013.

Then, on December 16, 2013, the Department sent Claimant an Appointment Notice, scheduling Claimant for an interview on December 23, 2013. See Exhibit 1. On December 23, 2013, the Department testified that it attempted to contact the Claimant, the Claimant did not answer and a voicemail was left. However, Claimant testified that he was with a friend when they received the phone call on December 23, 2013. Claimant testified that his friend did answer the phone; however, they had difficulty in completing the phone conversation. It should be noted that Claimant acknowledged that he received the Appointment Notice dated December 16, 2013.

Also, on December 23, 2013, the Department sent Claimant a Notice of Missed Interview, which informed Claimant that it is his responsibility to reschedule the

interview before January 15, 2014 or his application will be denied. See Exhibit 1. The Department testified that it did receive a phone call/voicemail from the Claimant on or around December 27, 2013. On December 27, 2013, the Department testified that it attempted to return the missed phone call and the Claimant did not answer and left a voicemail. Ultimately, on January 15, 2014, the Department sent Claimant a Notice of Case Action notifying him that his FAP benefits were denied effective December 16, 2013, ongoing, due to his failure to complete the interview requirement. See Exhibit 1.

Claimant testified that subsequent to the phone call with his friend on December 23, 2013, he sought assistance from his cousin/interpreter (witness) present for this hearing. Claimant's witness testified that she did contact/leave a voicemail for the Department sometime between December 23, 2013 to December 27, 2013. Claimant's witness testified that she never received a phone call back as alleged by the Department.

Clients must cooperate with the local office in determining initial and ongoing eligibility. BAM 105 (January 2014), p. 7. The local office must assist clients who ask for help in completing forms or gathering verifications. BAM 105, p. 13. Particular sensitivity must be shown to clients who are illiterate, disabled or not fluent in English. BAM 105, p. 13.

The purpose of the interview is to explain program requirements to the applicant and to gather information for determining the group's eligibility. BAM 115 (January 2014), p. 16.

For FAP cases, an interview is required before denying assistance even if it is clear from the application or other sources that the group is ineligible. BAM 115, p. 17. Do not deny the application if the client has not participated in the initial interview until the 30th day after the application date even if he/she has returned all verifications. BAM 115, p. 17.

The Department conducts a telephone interview at application before approving benefit unless certain conditions exist. See BAM 115, pp. 18-19.

If clients miss an interview appointment, the Department sends a DHS-254, Notice of Missed Interview, advising them that it is the clients' responsibility to request another interview date. BAM 115, p. 22. It sends a notice only after the first missed interview. BAM 115, p. 22. If the client calls to reschedule, set the interview prior to the 30th day, if possible. BAM 115, p. 22. If the client fails to reschedule or misses the rescheduled interview, deny the application on the 30th day. BAM 115, p. 22. If failure to hold the interview by the 20th day or interview rescheduling causes the application to be pending on the 30th day. BAM 115, p. 22.

Based on the foregoing information and evidence, the Department properly denied Claimant's FAP application effective December 16, 2013, ongoing, in accordance with Department policy. The Department presented credible evidence and testimony that it attempted to contact the Claimant for the interview on three separate occasions, but

without any success. The Department presented as evidence a case comments history, which documented such phone calls. See Exhibit 1. First, on December 16, 2013, the Department attempted to call the Claimant to conduct an intake FAP interview, without any success. See Exhibit 1. Second, on December 23, 2013, the Department attempted a second phone call for the scheduled interview, but without any success. Claimant alleged that his friend answered the telephone call; however, the Department records credibly showed that no one answered the phone call and a voicemail was left. See Exhibit 1. Third, both parties are in agreement that Claimant and/or the witness left a voicemail sometime between December 23, 2013 to December 27, 2013. However, Claimant's witness testified that she never received any phone call back as alleged by the Department. The Department, again, presented credible evidence that it did attempt to contact the Claimant without any success on December 27, 2013. See Case Comment, Exhibit 1.

Ultimately, Claimant must cooperate with the local office in determining initial and ongoing eligibility. BAM 105, p. 7. It is evident that the Claimant is not fluent in English and particular sensitivity must be shown. See BAM 105, p. 13. However, the Department presented credible evidence that it attempted to contact the Claimant for the interview on three separate occasions, but without any success. Moreover, the Department provided credible evidence that it did return Claimant's witness voicemail and did not receive any phone call back. It is found that Claimant failed to complete the FAP interview and the Department properly denied the application until the 30th day after the application in accordance with Department policy. See BAM 105, p. 13 and BAM 115, pp. 17 and 22.

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 (i) properly denied Claimant's FAP application effective December 16, 2013; and (ii) properly determined that Claimant failed to apply for MA benefits on December 16, 2013.

Accordingly, the Department's FAP and MA decision is AFFIRMED.



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

Date Signed: March 3, 2014

Date Mailed: March 3, 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

EJF/tlf

cc:

