

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

IN THE MATTER OF:

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

Reg. No.: 2014-24501
Issue No(s): 3007
Case No.: ██████████
Hearing Date: February 26, 2014
County: Sspc-East-98

ADMINISTRATIVE LAW JUDGE: Susan C. Burke

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 February 26, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████, Departmental Manager.

ISSUE

Did the Department properly deny Claimant's Food Assistance Program (FAP) 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. Claimant applied for FAP benefits on December 2, 2013.
2. On December 2, 2013, the Department issued an Appointment Notice for a telephone interview on December 10, 2013, instructing Claimant to contact the specialist prior to the appointment to reschedule if necessary.
3. Claimant attempted to contact his specialist prior to the appointment date to reschedule the appointment, but the specialist did not return his phone call.

4. On December 10, 2013, the Department issued a Notice of Missed interview, instructing Claimant to reschedule the interview prior to January 1, 2014 because he missed the interview.
5. Claimant attempted to contact the Department specialist prior to January 1, 2014.
6. On December 27, 2013, the Department specialist attempted to contact Claimant.
7. The Department denied Claimant's application, issuing a Notice of Case Action on January 2, 2014, stating that Claimant failed to complete the interview requirement.

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.

In the present case, Claimant applied for FAP benefits on December 2, 2013. On December 2, 2013, the Department issued an Appointment Notice for a telephone interview on December 10, 2013, instructing Claimant to contact the specialist prior to the appointment to reschedule if necessary. Claimant attempted to contact his specialist prior to the appointment date to reschedule the appointment, but the specialist did not return his phone call. On December 10, 2013, the Department issued a Notice of Missed interview, instructing Claimant to reschedule the interview prior to January 1, 2014 because he missed the interview. Claimant attempted to contact the Department specialist prior to January 1, 2014. On December 27, 2013, the Department attempted to contact Claimant. The Department denied Claimant's application, issuing a Notice of Case Action on January 2, 2014, stating that Claimant failed to complete the interview requirement.

The Department failed to protect Claimant's rights, per BAM 105, when it failed to return Claimant's call prior to the appointment of December 10, 2013. Because the Department did not return Claimant's call, the appointment was not rescheduled and the Department erroneously issued a Notice of Missed Interview. In addition, the Department further delayed in attempting to return Claimant's call, waiting to return Claimant's call until December 27, 2013 (Exhibit 2). It is noted that testimony at the hearing indicated a phone log also showed a call made to Claimant's phone number on

December 26, 2013, but that was not mentioned in the specialist's comments found in Exhibit 2, and the specialist was not present at the hearing to testify.

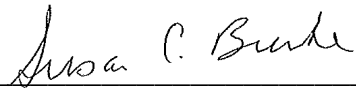
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it denied Claimant's application for FAP.

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. Reinstate and reprocess Claimant's FAP application of December 2, 2013.
2. Issue FAP supplements, in accordance with Department policy if Claimant is found to be eligible for FAP.



Susan C. Burke
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

SCB/tm

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