

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 2014-27386
Issue No.: 3001
Case No.: ██████████
Hearing Date: March 12, 2014
County: Sspc-East-98

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 March 12, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████ Assistance Payment Supervisor, and ██████████, 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 February 3, 2014, Claimant applied for FAP benefits.
2. In his interview, Claimant informed the Department that he had been living in Texas the prior month but was no longer receiving food assistance from Texas.
3. On February 3, 2014, the Department sent the Texas Health and Human Services Commission an Out-of-State Inquiry, DHS 3782, requesting information concerning benefits received by Claimant in Texas.

4. On February 4, 2014, the Texas Health and Human Services Commission responded with an out-of-state response form indicating that Claimant had received SNAP with a 3/31/2014 end date.
5. On February 5, 2014, the Department sent Claimant a Notice of Case Action denying his application because he received food assistance program benefits in another state for the benefit period.
6. On February 13, 2014, Claimant filed a request for 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 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.

Additionally, the Department testified that it denied Claimant's February 3, 2014 FAP application because it contended that the response to the out-of-state inquiry by the Texas Health and Human Services Commission showed that Claimant received food assistance from the state of Texas through March 31, 2014.

A person may not receive FAP in more than one state for any month. BEM 222 (July 2013), p. 3. If an applicant for FAP benefits arrives from another state within 30 days before application, the Department must make an out-of-state inquiry using DHS-3782. BEM 222, p. 3.

In this case, the Department complied with policy by requesting that the Texas Health and Human Service Commission complete the DHS-3782. The response from Texas showing that Claimant had an end date for food benefits of "3/31/14" led the Department to conclude that Claimant would receive food benefits from Texas through March 31, 2014, and deny his application. However, Claimant had advised the Department that he was no longer receiving food assistance benefits from the State of Texas at the time of his February 3, 2014 application. Before determining eligibility, the Department must give the client a reasonable opportunity to resolve any discrepancy between his statements and information from another source. BAM 130 (January 2014), p. 7.

At the hearing, Claimant testified that, after the Department denied his application, he made his own inquiry to Texas authorities concerning the status of his receipt of food assistance from that state. Claimant presented a copy of a notice dated December 20, 2013 sent to him by the Texas Health and Human Services Commission to his Texas mailing address, showing that his FAP case was closing effective February 1, 2014 because he had failed to verify where he lived. Claimant established that he faxed a copy of this notice to the Department on March 11, 2014.

Because the Department did not give Claimant the opportunity to resolve the discrepancy between his statement that he no longer received food assistance from the State of Texas and the response the Department received from Texas authorities to the out-of-state inquiry, the Department did not act in accordance with Department policy. If the Department concludes that the letter presented by Claimant creates a conflict, a collateral contact with Texas authorities may be appropriate. BEM 222, p. 4.

DECISION AND ORDER

Accordingly, the Department's FAP 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. Reregister and reprocess Claimant's February 3, 2014, FAP application;
2. Issue supplements to Claimant for any FAP benefits he was eligible to receive but did not from February 3, 2014, ongoing; and
3. Notify Claimant in writing of its decision.



Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: March 14, 2014

Date Mailed: March 14, 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

ACE/tm

CC:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]