

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

IN THE MATTER OF:



Reg. No.: 2014-29512
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: March 25, 2014
County: SSPC-West

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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 March 25, 2014 from Lansing, Michigan. Claimant participated via telephone and provided testimony. Participants on behalf of the Department of Human Services (Department) included [REDACTED] (Assistance Payments Worker) and [REDACTED] (Assistance Payments Supervisor).

ISSUE

Did the Department properly deny Claimant's application for Food Assistance Program (FAP) benefits due to failure to comply with the verification requirements?

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 January 13, 2014, Claimant applied for FAP benefits.
2. On January 13, 2014, Claimant was mailed an Appointment Notice (DHS-170) which scheduled a telephone appointment with his specialist for January 22, 2014 at 9:00a.m.
3. On February 12, 2014, the Department mailed Claimant a Notice of Case Action (DHS-1605) which denied his application for FAP benefits effective January 13, 2014 due to his failure to complete the interview requirement.
4. Claimant requested a hearing to dispute the application denial on February 24, 2014.

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.

Clients who are able but refuse to provide necessary information or take a required action are subject to penalties. BAM 105, p 18. Policy requires the Department conduct a telephone interview at application before approving benefits for FAP. BAM 115, p 18 (3-1-2014). An interview is required before denying assistance even if it is clear from the application or other sources that the group is ineligible. Do **not** deny the application if the client has not participated in a scheduled initial interview until the 30th day after the application date **even** if he/she has returned all verifications. BAM 115, p 17 (3-1-2014).

Department policy sets forth the procedures that employees must follow when conducting a FAP telephone interview. When conducting a telephone interview, ask the caller a question only the head of household could answer (such as last four digits of his/her Social Security number, date of birth, etc.) to ensure the identity of the caller. The best practice is to document the case record with the answer to your question. BAM 115, p 19 (3-1-2014).

For FAP only, the Department must schedule the interview as a telephone appointment unless specific policy directs otherwise. BAM 115, p 22 (3-1-2014).

Here, the Department contends that two attempts were made to contact Claimant for a telephone interview, but that a woman answered the telephone and indicated that Claimant was not available. The Department worker then indicated that a telephone message was left for Claimant to return the call, but the call was not returned. Claimant, on the other hand, states that he was never contacted by anyone before his FAP application was denied.

Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). The weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997). Moreover, it is for the fact-finder to gauge the demeanor and veracity of the witnesses who appear before him, as best he is able. See, e.g., *Caldwell v Fox*, 394 Mich 401, 407; 231 NW2d 46 (1975); *Zeeland Farm Services, Inc v JBL Enterprises, Inc*, 219 Mich App 190, 195; 555 NW2d 733 (1996).

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record. The Department has included both documents and testimony to show that attempts were made to call Claimant on his cell phone. The Department provided phone records to show that attempts to call Claimant were made on January 16, 2014 and again on January 22, 2014. During the hearing, Claimant confirmed his cell phone number and the number he provided matched the Department's phone records. This Administrative Law Judge finds that the Department's phone records and testimony are persuasive and that Claimant's denial that the Department called him for an interview is not credible.

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 based on his failure to participate in a telephone interview.

DECISION AND ORDER

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

IT IS SO ORDERED.



C. Adam Purnell
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: April 1, 2014

Date Mailed: April 1, 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

CAP/las

cc:

