

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

IN THE MATTER OF:

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████████████████████

Reg. No.: 14-017967
Issue No.: 3001
Case No.: ██████████
Hearing Date: January 12, 2015
County: WAYNE-DISTRICT 19
(INKSTER)

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 telephone hearing was held on January 12, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, ██████████. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████ Assistant Payment Worker; and ██████████, Family Independence 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. On October 24, 2014, Claimant applied online for FAP benefits.
2. On November 21, 2014, the Department attempted to contact the Claimant for his FAP application telephone interview, but to no avail. See Exhibit 1, p. 3. The Department could not contact the Claimant because his number was not in service. See Exhibit 1, p. 3.
3. On November 21, 2014, the Department sent Claimant an Application Notice notifying him that his FAP application was denied because he failed to meet the interview requirements. See Exhibit 1, p. 4.
4. On December 4, 2014, Claimant filed a hearing request, protesting the FAP denial. See Exhibit 1, p. 5.

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 273. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001 to .3015.

Preliminary matter

In the present case, on November 21, 2014, the Department sent Claimant an Application Notice notifying him that his FAP application was denied because he failed to meet the interview requirements. See Exhibit 1, p. 4. However, Claimant testified he never received the denial notice dated November 21, 2014. Instead, Claimant testified that he received a different FAP denial notice dated on or around November of 2014. Claimant testified that he requested the hearing based on this other alleged denial notice. Claimant failed to provide a copy of the alleged denial notice. Claimant, though, did testify that he ultimately disputes the denial of his FAP application dated October 24, 2014.

During the hearing, the Department testified that Claimant had two different profiles with DHS. The Department provided Claimant's correspondence history (both case profiles) for the period of October 1, 2014, to January 12, 2015. See Exhibit 2, pp. 1-2. A review of the correspondence history found no other denial notice(s) generated in October or November 2014 addressing his FAP benefits. See Exhibit 2, pp. 1-2.

Based on above information, the evidence indicated that Claimant only received a FAP denial notice dated November 21, 2014. See Exhibit 1, p. 4. Nevertheless, Claimant acknowledged that he disputes the denial of his FAP application dated October 24, 2014. As such, the hearing proceeded to address if whether the Department properly denied Claimant's FAP application based on his failure to meet the interview requirements. See Exhibit 1, p. 4.

FAP application

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 (July 2014), p. 16. For FAP benefits, the Department conducts a telephone interview at application before approving benefits, unless policy directs otherwise. See BAM 115, pp. 18-19 (in-person interviews requirements).

In this case, on October 24, 2014, Claimant applied online for FAP benefits. On November 21, 2014, the Department attempted to contact the Claimant for his FAP application telephone interview, but to no avail. See Exhibit 1, p. 3. The Department could not contact the Claimant because his number was not in service. See Exhibit 1, p. 3. The Department testified that it used the phone number Claimant listed in his application. Claimant did not dispute that he had telephone service issues. The Department testified that it learned of Claimant's telephone service issues subsequent to the attempt made. On November 21, 2014, the Department sent Claimant an Application Notice notifying him that his FAP application was denied because he failed to meet the interview requirements. See Exhibit 1, p. 4. Again, Claimant testified that he never received the Application Notice dated November 21, 2014.

For FAP only, the interview must be held by the 20th day after the application date to allow the client at least 10 days to provide verifications by the 30th day. BAM 115, p. 22. 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, the Department denies 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, the Department reviews processing delays located in BAM 115. See BAM 115, p. 22.

Finally, for FAP only, 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, pp. 17 and 23. The Department does 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 has returned all verifications. BAM 115, pp. 17 and 23.

Based on the foregoing information and evidence, the Department improperly denied Claimant's FAP application in accordance with Department policy.

First, it is established that Claimant missed his interview. However, policy states that if the client misses an interview appointment, the Department sends a DHS-254, Notice of Missed Interview, advising them that it is the client's responsibility to request another interview date. BAM 115, pp. 22. The Department failed to present any evidence if it sent Claimant a Notice of Missed Interview. A review of Claimant's correspondence history found no Notice of Missed Interview generated to the Claimant. See Exhibit 2, pp. 1-2. Because the Department failed to send Claimant a Notice of Missed Interview, it improperly denied his FAP application in accordance with Department policy. BAM 115, p. 22.

Second, policy states that the Department does 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 has returned all verifications. BAM 115, pp. 17 and 23. Claimant's application is dated October 24, 2014. The Department denied Claimant's application on November 21, 2014. See Exhibit 1, p. 4. The Department failed to deny Claimant's application until the 30th day after the application date. Claimant's 30th day after the application dated was on or around November 23, 2014. As such, the Department failed to deny Claimant's application until the 30th day after the application date in accordance with Department policy. BAM 115, pp. 17 and 23.


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 did not act in accordance with Department policy when it improperly denied Claimant's FAP application dated October 24, 2014.

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. Initiate re-registration and re-processing of Claimant's FAP application dated October 24, 2014;
2. Begin issuing supplements to Claimant for any FAP benefits he was eligible to receive but did not from October 24, 2014, ongoing; and
3. Begin notifying Claimant of its FAP decision in accordance with Department policy.


Eric Feldman
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **1/16/2015**

Date Mailed: **1/16/2015**

EJF / cl

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS **MAY** order a rehearing or reconsideration on its own motion.

MAHS **MAY** grant a party's Request for Rehearing or Reconsideration 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, 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 48909-8139

CC: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]