

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

IN THE MATTER OF:

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Reg. No.: 15-004012
Issue No.: 3001
Case No.: ██████████
Hearing Date: April 20, 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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on April 20, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, ██████████. Participants on behalf of the Department of Health and Human Services (Department or DHHS) included ██████████, Hearings Facilitator

ISSUE

Did the Department properly deny Claimant's Food Assistance Program (FAP) application dated February 2, 2015?

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 2, 2015, Claimant applied for FAP benefits. See Exhibit 1, p. 2.
2. On February 27, 2015, the DHHS caseworker (who is not present for the hearing) attempted to contact the Claimant for her FAP telephone phone interview, but to no avail. See Exhibit 1, p. 1. The DHHS caseworker left Claimant her contact number for a return call in order to complete the FAP telephone interview. See Exhibit 1, p. 1.
3. On February 27, 2015, Claimant testified that she attempted to contact the DHHS caseworker back, but to no avail. Claimant testified that she left a voicemail and

also made additional attempts to contact the DHHS caseworker the following week.

4. On March 3, 2015, the Department sent Claimant an Application Notice notifying her that her FAP application was denied due to her failure to meet the interview requirements. See Exhibit 1, p. 10.
5. On March 9, 2015, Claimant filed a hearing request, protesting the FAP denial. See Exhibit 1, p. 2.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, 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 Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

For FAP only, the Department schedules the interview as a telephone appointment unless specific policy directs otherwise. BAM 115 (January 2015), p. 22. 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.

For FAP only, 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, the Department sets 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. 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.

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, p. 17. 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 she has returned all verifications. BAM 115, pp. 17-18.

Based on the foregoing information and evidence, the Department improperly denied Claimant's FAP application in accordance with Department policy. See BAM 115, pp. 17-22.

First, the evidence indicated that the Department failed to send Claimant a DHS-254, Notice of Missed Interview. Policy clearly states that if a client misses an interview, the Department would send the above form in order for the Claimant to request another interview date. See BAM 115, p. 22. However, the evidence established the Department never sent Claimant such a form as required per policy. See BAM 115, p. 22.

Second, this Administrative Law Judge (ALJ) finds that Claimant credibly testified that she attempted to contact the DHHS caseworker back on February 27, 2015. Claimant's credibility is supported by her hearing request, which provided similar statements of Claimant's repeated attempts to get ahold of her DHHS caseworker, but to no avail. See Exhibit 1, p. 2. In fact, Claimant's DHHS caseworker failed to be present at the hearing to rebut Claimant's testimony. Nevertheless, the Department should have rescheduled Claimant's interview as she made attempts to complete the interview process. See BAM 115, p. 22.

Third, it appears that the Department did not properly deny Claimant's application in accordance with Department policy. Policy states that the application is not denied until the 30th day after the application date. BAM 115, pp. 17-18. Claimant's FAP application was February 2, 2015 and the Department denied it on March 3, 2015. See Exhibit 1, pp. 1 and 10. The 30th day after the application date is March 4, 2015, which would appear that the Department denied it one day earlier. See BAM 115, pp. 17-18. Nonetheless, for the above stated reasons, the Department improperly denied Claimant's FAP application in accordance with Department policy. See BAM 115, pp. 17-22.

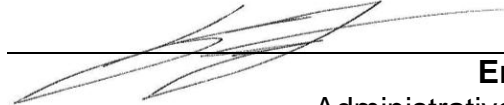
DECISION AND ORDER

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 did not act in accordance with Department policy when it improperly denied Claimant's FAP application dated February 2, 2015.

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 reprocessing of Claimant's FAP application dated February 2, 2015;
2. Begin issuing supplements to Claimant for any FAP benefits she was eligible to receive but did not from February 2, 2015, ongoing; and
3. Begin notifying Claimant of its FAP decision.



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

Date Signed: **4/20/2015**

Date Mailed: **4/20/2015**

EJF/tm

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 copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from 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]