

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 15-002469
Issue No.: 2000, 3001
Case No.: ██████████
Hearing Date: May 13, 2015
County: MUSKEGON

ADMINISTRATIVE LAW JUDGE: Gary Heisler

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 convened on March 18, 2015. During that hearing it was determined that there is no Medical Assistance issue within the jurisdiction of Claimant's hearing request. The Medical Assistance portion of this file was dismissed. An Order for Continuance was issued so that all the issues within the jurisdiction of Claimant's hearing request could be addressed. The original hearing was continued on May 13, 2015, from Lansing, Michigan. Participants on behalf of Claimant included herself. Participants on behalf of the Department of Health and Human Services (Department) included Family Independence Manager (FIM) ██████████, Family Independence Manager (FIM) ██████████ and Regulation Agent ██████████.

ISSUE

Did the Department properly deny Claimant's December 8, 2014 Food Assistance Program application?

Did the Department properly deny Claimant's January 14, 2015 Food Assistance Program 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 December 8, 2014, Claimant submitted a Food Assistance Program application. Claimant indicated she was homeless but provided a mailing address where she had previously resided with her son, ██████████, who is under 22 years old.

2. On December 16, 2014, Regulation Agent [REDACTED] completed a Front End Eligibility Investigation (FEE) regarding Claimant's residence. Based on the conclusion of the FEE, Claimant was sent a Verification Checklist (DHS-3503) requesting [REDACTED]'s income verification. The verification was due on December 26, 2014.
3. On January 6, 2015, the Department had not received verification of [REDACTED]'s income. Claimant was sent a Notice of Case Action (DHS-1605) which stated her December 8, 2014 application was denied.
4. On January 14, 2015, Claimant submitted a Food Assistance Program application. Claimant indicated she was homeless but provided a different mailing address than her son's.
5. On January 23, 2015, the Department sent a Verification Checklist (DHS-3503) and an Appointment Notice (DHS-170) to the mailing address Claimant provided on the January 14, 2015 application. The Verification Checklist (DHS-3503) requested verification of [REDACTED]'s income and the Appointment Notice (DHS-170) scheduled a telephone interview for February 2, 2015.
6. On February 2, 2015, the Department had not received the income verification and Claimant did not participate in the scheduled telephone interview. A Notice of Missed Interview (DHS-254) was sent to Claimant at the mailing address Claimant provided on the January 14, 2015 application. The Notice of Missed Interview (DHS-254) stated Claimant was responsible to reschedule the required interview before February 13, 2015 or her application would be denied.
7. On February 12, 2015, Claimant submitted a hearing request. In the hearing request Claimant stated issues about three separate applications and her son's income.
8. On February 13, 2015, Claimant was sent a Notice of Case Action (DHS-1605) which stated her January 14, 2015 application was denied.

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.

December 8, 2014 Food Assistance Program application

The Department submitted a copy of Regulation Agent [REDACTED]'s Front End Eligibility Investigation (FEE) report (Page 4A). Regulation Agent [REDACTED] testified that: on December 12, 2014 he spoke with [REDACTED] at the residence in question; [REDACTED] stated [REDACTED] was his mother; his mother was sleeping inside; that his mother lived in the same apartment as he did; [REDACTED] was the landlord. Regulation Agent [REDACTED] testified that [REDACTED] told him that as far she knew, [REDACTED] lived in 590 #1 Oak with her son, [REDACTED].

Claimant asserts that she has not lived with her son, [REDACTED] since July 2014. During this hearing Claimant submitted: a written statement from [REDACTED], her son's landlord; a written statement from her son, [REDACTED]; and a written statement from [REDACTED], Claimant's friend.

The statement from [REDACTED] is dated March 18, 2015. The relevant part of the statement says [REDACTED] has moved out of 590 #1 Oak and I am unaware of where she has moved."

The statement from [REDACTED] is dated March 18, 2015 and states: I stated to DHS persons that my mom still receives mail here; her stuff was still here in her room. I stated that she was still back and forth staying here. They did not inquire further."

The statement from [REDACTED] is dated March 18, 2015. The relevant part of the statement says "Ms. [REDACTED] has stayed with me months at a time throughout 2014 and most recently in 2015."

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). Moreover, 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). In evaluating the credibility and weight to be given the testimony of a witness, the fact-finder may consider the demeanor of the witness, the reasonableness of the witness's testimony, and the interest, if any, the witness may have in the outcome of the matter. *People v Wade*, 303 Mich 303 (1942), *cert den*, 318 US 783 (1943).

Claimant's assertion that she did not reside with her son is not credible in consideration of the totality of evidence in this record. Bridges Eligibility Manual (BEM) 2012 Food Assistance Program Group Composition (2014), states that parents and children under 22 years of age who live together must be in the same group. 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 December 8, 2014 Food Assistance Program application for failure to provide verification of [REDACTED]'s income.

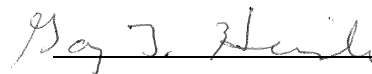
January 14, 2015 Food Assistance Program application

The Department denied the January 14, 2015 application because Claimant did not participate in the required interview. Claimant does not dispute her failure to participate in an interview. Claimant asserts she never received the January 23, 2015 and February 2, 2015 correspondence sent to the address she gave on the January 14, 2015 Food Assistance Program application. In support of her assertion, Claimant submitted a correspondence cover letter dated March 25, 2015 which is addressed to her, at her son's address. The March 25, 2015 correspondence cover letter is not relevant because it is not during the period of time Claimant is making assertions about.

Claimant's assertion that she did not receive January 23, 2015 and February 2, 2015 correspondence sent to the address she gave on the January 14, 2015 Food Assistance Program application is not credible in consideration of the totality of evidence in this record. 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 January 14, 2015 Food Assistance Program application for failure to participate in the required interview.

DECISION AND ORDER

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



Gary Heisler
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **6/22/2015**

Date Mailed: **6/22/2015**

GFH / [REDACTED]

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:

