

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

IN THE MATTER OF:



MAHS Reg. No.: 15-014189
Issue No.: 3001, 3002
Agency Case No.:
Hearing Date: November 23, 2015
County: Wayne (19) Inkster

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

HEARING DECISION

Following Petitioner'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 3-way hearing was held on November 23, 2015, from Detroit, Michigan. The Petitioner was represented by the Petitioner. The Department of Health and Human Services (Department) was represented by , Hearing Facilitator.

ISSUE

Did the Department properly deny the Petitioner'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. The Petitioner applied for Food Assistance Program (FAP) on June 23, 2015. The Petitioner did not list a phone number on the application and used rather than for her street address number.
2. The Department scheduled in in-person interview for the Petitioner on July 20, 2015, at 11:00 a.m. The Petitioner received the Appointment Notice on the Friday before the appointment, which was on Monday. The Petitioner attempted to call her caseworker to reschedule the appointment as she could not attend the scheduled appointment. Exhibit A.

3. The Department manually issued an Employment Verification dated July 20, 2015, with a due date of July 24, 2015. The Petitioner did not receive the Employment Verification. Exhibit B.
4. Thereafter, on July 20, 2015, the Department issued a Notice of Missed Interview on July 20, 2015, advising the Petitioner to reschedule the interview and providing the information to reschedule. The Petitioner attempted to reschedule the interview by calling her assigned caseworker without any call back. Exhibit C.
5. The Department issued a Notice of Case Action on July 23, 2015, denying the Petitioner's FAP application for failure to meet interview requirements.
6. The Petitioner requested a timely hearing on July 23, 2015, protesting the Department's actions.

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.

In this case, the Department denied the Petitioner's FAP application for failure to attend the FAP interview scheduled for July 20, 2015. The Notice of Interview Appointment and an Employment Verification were sent manually, not by Central Print. The Petitioner credibly testified that she received the Appointment Notice but never received the Employment Verification even though the Petitioner had transposed her address from [REDACTED] the correct address, to [REDACTED]. The Petitioner also credibly testified that she attempted many times to reschedule the interview but did not receive a return call from the caseworker. The Department closed the case three days after the Notice of Missed Interview was sent to the Petitioner. Exhibits C and D. Department policy provides:

If an interview is necessary, conduct it on the day of the filing, if possible. Otherwise, schedule it for **no later than 10 calendar days** from the application date. BAM 115, (October 1, 2015), p. 5

All Programs

Do **not** deny an incomplete application until 10 calendar days from the **later** of either the initial:

- Request in writing to the applicant to complete the application form or supply missing information.
- Scheduled interview.

Exception: For FAP, do **not** deny an application if the client has not participated in the **initial interview** until the **30th** day after the application date **even** if he/she has returned all required verifications. When denying cases on the 30th day, navigate to the *Program Request Details* screen and select *Failed to Attend Food Assistance Intake Interview* as the reason for the denial. The initial interview **must** be scheduled as an in-person appointment, phone appointment or home call. BAM 115, p. 6

In this case, the Department did not follow Department policy regarding the processing of the Petitioner's application. The Petitioner's testimony was found credible, indicating that she confirmed receiving documents even though sent to a wrong address resulting from the Petitioner's putting the wrong street address by mistake on her application. The Department waited well beyond 10 days to schedule an interview, which is required by policy referenced above in BAM 115. In addition, the Department denied the FAP application prior to the due date for the Verification of Employment. Exhibit B. The verification was due on July 24, 2015; and the Department sent the notice closing the case on July 23, 2015.

Additionally, even though the Department protested that the Petitioner had placed the wrong address on the application, and therefore, received the notification of the interview late, given the fact that the notice was received Friday for a Monday, which she attempted to reschedule, there was no evidence that the wrong address delayed matters. In fact, none of the mail was returned. It seems that the Department's delay in scheduling the interview almost one month after the filing of the application had more to do with the application denial. The Petitioner also credibly testified that she called her caseworker numerous times attempting to reschedule; the Department presented no evidence that the caseworker did not receive any of the Petitioner's phone calls to reschedule, and denied the case three days later on the 30th day after the application was filed without any rescheduling. The Department also acknowledged that it had to manually print the Verification and the Notice of Appointment, which could have been the reason the Petitioner received the Notice of Appointment so late.

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

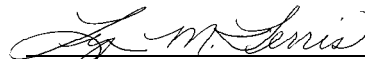
act in accordance with Department policy when it denied the Petitioner's FAP application for failure to attend and complete the interview.

DECISION AND ORDER

Accordingly, the Department's 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. The Department shall re-register the Petitioner's June 23, 2015, FAP application and determine Petitioner's eligibility.
2. The Department shall issue a retroactive FAP supplement, if the Petitioner is deemed otherwise eligible for FAP benefits in accordance with Department policy.



Lynn M. Ferris

Administrative Law Judge

for Nick Lyon, Director

Department of Health and Human Services

Date Mailed: **11/23/2015**

LMF/jaf

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:

