

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

IN THE MATTER OF:

[REDACTED]

MAHS Reg. No.: 15-018244
Issue No.: 3001
Agency Case No.: [REDACTED]
Hearing Date: November 19, 2015
County: MACOMB-DISTRICT 20
(WARREN)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 telephone hearing was held on November 19, 2015, from Detroit, Michigan. Petitioner and his mother [REDACTED] appeared and testified. The Department of Health and Human Services (Department) was represented by [REDACTED], backup hearing facilitator.

ISSUE

Did the Department properly deny Petitioner's [REDACTED] application for Food Assistance Program (FAP) benefits?

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 [REDACTED], Petitioner filed an application for FAP benefits.
2. On [REDACTED], the Department sent Petitioner an Appointment Notice informing him that a telephone hearing concerning his FAP application would be held on [REDACTED], at 9:30 a.m. (Exhibit A).
3. On [REDACTED], the Department sent Petitioner a Notice of Missed Interview advising him that it was his responsibility to reschedule the interview before [REDACTED].

4. On [REDACTED], the Department sent Petitioner a Notice of Case Action denying his application because he failed to complete the interview process (Exhibit C).
5. On [REDACTED], Petitioner filed a request for hearing disputing 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.

The Department denied Petitioner's [REDACTED] FAP application because he had failed to complete the interview process. An interview between a FAP applicant and the Department is a condition to FAP eligibility and is required before denying assistance even if it is clear from the application or other sources that the group is ineligible. BAM 115 (July 2015), pp. 1, 16. The purpose of the interview is for the Department to explain program requirements to the applicant and gather information for determining the group's eligibility. BAM 115, p. 16. An 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, pp. 16, 22. If a client misses an interview, the Department sends a DHS-254, Notice of Missed Interview, advising the client that it is his responsibility to request another interview date. BAM 115, p. 22.

In this case, the Department acknowledged that it erred in failing to reschedule the interview where it concluded that Petitioner had contacted the Department on [REDACTED], concerning the missed [REDACTED] interview. Because Petitioner attempted to contact the Department to reschedule the interview before his application was denied on [REDACTED], 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 Petitioner's [REDACTED], FAP application for failure to 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. Reregister and reprocess Petitioner's [REDACTED] FAP application;
2. Issue supplements to Petitioner for any FAP benefits he was eligible to receive but did not from [REDACTED], ongoing; and
3. Notify Petitioner in writing of its decision.



Alice C. Elkin

Administrative Law Judge
for Nick Lyon, Director

Department of Health and Human Services

Date Mailed: **11/25/2015**

ACE/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:

