

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-001767
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: March 05, 2015
County: Macomb (20) (Warren)

ADMINISTRATIVE LAW JUDGE: Darryl Johnson

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 March 5, 2015, from Lansing, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included Hearings Facilitator [REDACTED].

ISSUE

Did the Department properly deny Claimant's 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. Claimant applied for FAP.
2. On November 18, 2014, the Department mailed to Claimant an Appointment Notice (Exhibit A Page 3) informing her she would have a telephone appointment with her specialist on [REDACTED].
3. Claimant called the Department and explained that she would not be able to make the appointment because she was scheduled for physical therapy at that time. She asked the Department to reschedule her appointment.

4. On December 15, 2014, the Department mailed to Claimant an Appointment Notice (Exhibit A Page 2) informing her she would have a telephone appointment with her specialist on [REDACTED].
5. Claimant and her case worker placed repeated calls to each other, leaving messages in an attempt to get the interview rescheduled.
6. On January 9, 2015, the Department mailed to Claimant a Notice of Case Action (Exhibit A Pages 6-7) informing her the FAP application was denied because she failed to complete the interview requirement.
7. The Department received Claimant's hearing request on January 29, 2015.

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.

Policy regarding telephone interviews is found in BAM 115 (1/1/15) at page 22, where it states:

If clients miss an interview appointment, Bridges sends a DHS-254, Notice of Missed Interview, advising them that it is **the clients'** responsibility to request another interview date. It sends a notice only after the **first** missed interview. If the client calls to reschedule, set the interview prior to the 30th day, if possible. If the client fails to reschedule or misses the rescheduled interview, deny 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; see Processing Delays in this item."

The delay in processing an application due to a missed interview is either due to the fault of the FAP group, or the fault of the local office. Claimant presented credible testimony that she made multiple attempts to reschedule the telephone interview at a time when she was not in physical therapy. Despite that request, the worker called her telephone at the scheduled interview time and left a message. Claimant has persuaded the undersigned that the interview was not completed because of fault in the local office.

When the process is delayed due to the fault of the local office, the Department is to take prompt action to correct the cause of the delay. (BAM 115 at 34.) It is also to provide requested help in completing the application process. If the application pends beyond 60 days, the Department is to obtain any missing information, if possible, and process the application. If the case information is not complete, the local office is to request the missing information and send a verification checklist, if appropriate, and give the applicant 10 days to provide verification. Then, it is to authorize benefits as if it were a complete case. The Department did not do this.

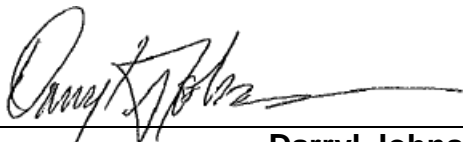
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it denied Claimant's application.

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 initiate a redetermination of Claimant's eligibility for FAP benefits beginning November 13, 2014.
2. Issue a supplement to Claimant for any benefits improperly not issued.



Darryl Johnson
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **3/6/2015**

Date Mailed: **3/6/2015**

DJ/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 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:

