

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-005099
Issue No.: 3007
Case No.: [REDACTED]
Hearing Date: May 13, 2015
County: Cass

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 held on May 13, 2015, from Lansing, Michigan. Participants on behalf of Claimant included himself. Participants on behalf of the Department of Health and Human Services (Department) included Eligibility Specialist (ES) [REDACTED] and AP Supervisor [REDACTED]

ISSUE

Did the Department properly process Claimant's March 25, 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 March 25, 2015, Claimant submitted an application for Food Assistance Program benefits.
2. On March 26, 2015, Claimant participated in a telephone interview. The Department raised the issue of who would need to be in Claimant's benefit group. Based on the conversation of that day, Claimant verbally withdrew his Food Assistance Program application. Claimant was sent a Notice of Case Action (DHS-1605) which stated the March 25, 2015 Food Assistance Program application was denied.
3. On March 30, 2015, Claimant contacted the Department and made a verbal hearing request about the March 26, 2015 denial of his application.

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 application Claimant submitted on March 25, 2015 was marked to show Claimant as homeless. Claimant included a mailing address and a home phone number on the application. Claimant also wrote that the best way to get in touch with him was "message phone." The mailing address Claimant gave is his wife's address. On March 26, 2015, the Department case worker telephoned Claimant to conduct the required Food Assistance Program interview. A woman answered the phone and when Claimant got on the line he told the case worker the woman who had answered was his wife. During the interview Claimant was informed of the Food Assistance Program benefit group requirements regarding husband and wife in the same household. The Department case worker felt that Claimant and his wife were in the same household and so Claimant and his wife would have to be part of the same benefit group. That was the reason Claimant withdrew his application.

During the telephone conversation between Claimant and the Department case worker on March 30, 2015, Claimant reported he was staying somewhere other than his wife's home. There was additional conversation regarding the Food Assistance Program benefit group requirements regarding husband and wife in the same household. During the conversation Claimant made the verbal request for a hearing.

Bridges Administration Manual (BAM) 105 Rights and Responsibilities, at page 13, states:

LOCAL OFFICE RESPONSIBILITIES

All Programs

Ensure client rights described in this item are honored and that client responsibilities are explained in understandable terms. Clients are to be treated with dignity and respect by all DHS employees.

Informing the Client

All Programs

Inform people who inquire about:

The DHS programs available, including domestic violence comprehensive services.

Their right to apply.

Provide specific eligibility information on all programs in which they are interested. The DHS-1171, Assistance Application Information Booklet, contains information about programs, services, rights and responsibilities.

During the March 30, 2015 telephone conversation, Claimant obviously expressed that he wished to receive Food Assistance Program benefits. He was properly informed of his right to request a hearing about the March 26, 2015 denial of his application. Bridges Administration Manual (BAM) 105, cited above, requires that he should have been informed that he could apply again. There is no evidence in this record which shows Claimant was informed of the option to simply reapply.

Bridges Administration Manual (BAM) 115 Application Processing at page 6 states:

APPLICATION AFTER DENIAL/ TERMINATION

All Programs

The following applies when an application is denied **or** eligibility is terminated before the month of a scheduled redetermination or end date:

The application on file remains valid through the last day of the month **after** the month of the denial or termination. To reapply during this time, the client/AR must do all of the following:

Update the information on the existing application.

Initial and date each page next to the page number to show that it was reviewed.

Re-sign and re-date the application on the signature page.

If eligibility exists, the updated application is valid until the originally scheduled redetermination or end date.

Reminder: An application *cannot* be updated or re-signed outside the local office except as part of a home call.

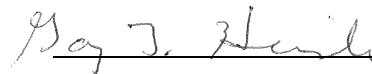
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it processed Claimant's March 25, 2015 Food Assistance Program application.

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. Obtain a paper application from Claimant either newly filled out or in accordance with the provisions of BAM 115 cited above.
2. Register the application as received on March 30, 2015, the date Claimant reported a change in his circumstances and expressed that he wished to receive Food Assistance Program.
3. Process the application in accordance with Department policy to determine Claimant's Food Assistance Program eligibility from March 30, 2015 ongoing.



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

Date Signed: **5/19/2015**

Date Mailed: **5/19/2015**

GH/las

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:

