

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

IN THE MATTER OF:



Reg. No.: 15-014691
Issue No.: 2000, 3001
Case No.: [REDACTED]
Hearing Date: September 24, 2015
County: CALHOUN (DISTRICT 21)

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 September 24, 2015, from Lansing, Michigan. Participants on behalf of Claimant included herself. Participants on behalf of the Department of Health and Human Services (Department) included Hearing Facilitator [REDACTED] and Eligibility Specialist (ES) [REDACTED]. It was determined that there is no Medical Assistance issue to be heard. That portion of the case is dismissed.

ISSUE

Did the Department properly deny Claimant's June 15, 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 June 15, 2015, Claimant submitted a Food Assistance Program application.
2. On June 16, 2015, Claimant was sent a Verification Checklist (DHS-3503) and an Appointment Notice (DHS-170). The Appointment Notice (DHS-170) scheduled a telephone interview for June 26, 2016.
3. On June 26, 2016, Claimant had submitted all required verifications but the telephone interview was not completed. Claimant was sent a Notice of Missed Interview (DHS-254). The notice stated that it was then Claimant's responsibility to reschedule the interview before 7/15/2015 or the application would be denied.

4. On July 15, 2015, a required telephone interview had not been completed. Claimant was sent a Notice of Case Action (DHS-1605) which stated her Food Assistance Program application was denied.
5. On August 6, 2015, Claimant submitted a hearing request.

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 parties agree that Claimant and Case Worker played “phone tag” trying to get an interview completed, but the efforts were not successful. Bridges Administration Manual (BAM) 115 Application Processing provides guidance to Department employees. “Page 17 & 18, under Interviews, FAP Only states:

An interview is required before denying assistance even if it is clear from the application or other sources that the group is ineligible. Do **not** deny the application if the client has not participated in a scheduled initial interview until the 30th day after the application date **even** if he/she has returned all verifications; see **Scheduling Interviews** for FAP only in this item.

Page 22, under Missed Interviews, FAP Only 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.

Page 33, under Processing Delays, FAP Fault Determination states:

The group is at fault when you have taken all required actions but the group has **not** complied with either of the following:

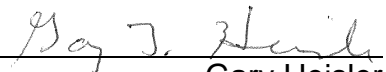
Provided all verifications by the 30th day, despite 10 days or more to provide them.

Participated in the scheduled interview; see Interviews in this item.

Once the initial interview is scheduled, responsibility to participate in the interview shifts to the applicant. The Notice of Missed Interview (DHS-254) and Department policy clearly communicate that shift of responsibility and the related consequences. Regardless of Claimant's efforts, failure to complete the interview is deemed applicant's fault and makes denial of the application a correct action. 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 June 15, 2015 Food Assistance Program application.

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: **9/30/2015**

Date Mailed: **9/30/2015**

GFH / ■

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:

