

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

IN THE MATTER OF:



MAHS Reg. No.: 15-018047
Issue No.: 3001
Agency Case No.: [REDACTED]
Hearing Date: November 23, 2015
County: Wayne (19)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 23, 2015, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED] hearing facilitator.

ISSUE

The issue is whether MDHHS properly denied Petitioner's Food Assistance Program (FAP) application due to Petitioner failing to attend an interview.

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 August 31, 2015, Petitioner applied for FAP benefits.
2. On September 17, 2014, MDHHS mailed Petitioner a notice to attend an in-person interview dated September 22, 2015.
3. On September 22, 2015, Petitioner failed to attend the interview and MDHHS mailed a Notice of Missed Interview (Exhibit 2) to Petitioner.
4. On September 28, 2015, MDHHS mailed Petitioner an Application Notice (Exhibits 3-4) advising Petitioner that her FAP application was denied due to failing to attend an interview.

5. On October 2, 2015, Petitioner requested a hearing to dispute the denial of FAP benefits.

CONCLUSIONS OF LAW

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. MDHHS (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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute the denial of a FAP application. MDHHS presented an Application Notice (Exhibits 3-4) which stated that Petitioner's application was denied due to her failure to meet interview requirements.

MDHHS presented an Appointment Notice (Exhibit 1). The form listed that Petitioner had an in-person interview on September 22, 2015. It was not disputed Petitioner failed to attend the corresponding interview.

[For FAP benefits,] the purpose of the interview is to explain program requirements to the applicant and to gather information for determining the group's eligibility. BAM 115 (July 2015), p. 22. [MDHHS is to] schedule interviews in Bridges promptly to meet the standard of promptness. *Id.*

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. *Id.*, p. 16. 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. *Id.* If the client fails to reschedule or misses the rescheduled interview, [MDHHS is to] deny the application on the 30th day. *Id.*

Petitioner's hearing request implied that MDHHS was at fault for her lack of notice of the interview. MDHHS presented a copy of the appointment notice along with a copy of an envelope that the mailing was returned to MDHHS despite listing Petitioner's proper address (see Exhibit 5). Presented documentation verified that MDHHS mailed Petitioner an interview notice.

Petitioner testimony alleged she's had problems with receiving her mail, though she conceded it was no fault of MDHHS. Petitioner testimony indicated that she should not be harmed for her post office's failure to deliver the form. Generally, an MDHHS action cannot be reversed unless it was shown to be improper. In the present case, the FAP interview notice was properly mailed; however, the type of interview scheduled was not proper.

For FAP [MDHHS is to] only schedule the interview as a telephone appointment unless specific policy directs otherwise. *Id.* The 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. *Id.*

MDHHS inexplicably scheduled Petitioner for an in-person interview. MDHHS presented no evidence that the processing of Petitioner's FAP application required Petitioner to attend an interview (as opposed to a telephone interview). No known MDHHS policy required an in-person interview for the present case's circumstances. The failure by MDHHS to schedule a telephone interview is not merely a technical violation of policy. Had MDHHS scheduled a telephone interview, Petitioner might have been called and participated in the interview process, despite her not receiving written notice.

It is found that MDHHS failed to provide Petitioner with proper interview notice by not scheduling a telephone interview. Accordingly, the corresponding denial of Petitioner's FAP application due to her failure to participate in the interview process was improper.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly denied Petitioner's application for FAP benefits. It is ordered that MDHHS perform the following actions within 10 days of the date of mailing of this decision:

- (1) reinstate Petitioner's FAP application dated August 31, 2015; and
- (2) initiate processing of the Petitioner's application subject to the finding that MDHHS failed to schedule a telephone interview for Petitioner.

The actions taken by MDHHS are **REVERSED**.



Christian Gardocki

Administrative Law Judge
for Nick Lyon, Director

Department of Health and Human Services

Date Signed: **11/24/2015**

Date Mailed: **11/24/2015**

CG/tm

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:

