



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

MIKE ZIMMER
DIRECTOR



Date Mailed: March 17, 2016
MAHS Docket No.: 16-001575
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Darryl Johnson

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 March 15, 2016, from Lansing, Michigan. The Petitioner represented himself. The Department of Health and Human Services (Department) was represented by Hearings Facilitator [REDACTED].

ISSUE

Did the Department properly close Petitioner's 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. Petitioner was an on-going FAP recipient who was to return a Redetermination by December 1, 2015, but did not.
2. Petitioner was scheduled for a telephone interview on December 1, 2015, at 9:30 a.m. He sat waiting by his phone and the call never came. He called the Department at around 10:50 a.m. that morning to ask what happened to the phone interview. His call was not returned.
3. On December 7, 2015, his completed Redetermination was scanned into the Department's computer system.

4. On December 31, 2015, the Department closed his FAP for failure to complete the Redetermination process.
5. On January 19, 2016, Petitioner called the Department to inquire about his FAP.
6. On January 20, 2016, a Supervisor called Petitioner back and completed the interview.
7. On January 26, 2016, the Department reinstated his FAP effective that day.
8. Petitioner requested a hearing on February 1, 2016.

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, Petitioner was late completing and returning the Redetermination. That was his error. However, the Department had scheduled him for the phone interview on December 1, 2015, but did not tell him that the interview was canceled because it did not receive the Redetermination. He then submitted the completed Redetermination, and he called the Department to ask about his status, but his calls were not returned. Instead, more than three weeks later, the Department closed his FAP.

In the Notice of Missed Interview (Exhibit 1 Page 3) the Department told Petitioner that it was his responsibility to reschedule the interview. He attempted to do so. He testified that he did not receive a return call from his case worker. The case worker did not participate in the hearing, and there were no records from the Department to prove that the worker attempted to call him back to complete the interview.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Petitioner's FAP.

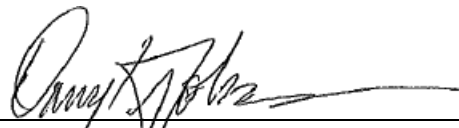
DECISION AND ORDER

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 Petitioner's eligibility for FAP benefits beginning January 21, 2016.
2. Issue a supplement to Petitioner for any benefits improperly not issued.

DJ/mc



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

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088; 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

DHHS

[REDACTED]

Petitioner

[REDACTED]