



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: June 16, 2016
MAHS Docket No.: 16-006010
Agency No.: [REDACTED]
[REDACTED]

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

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 June 8, 2016, from Lansing, Michigan. The Petitioner was represented by himself. The Department of Health and Human Services (Department) was represented by [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly deny the Petitioner's Food Assistance Program (FAP) application because the Petitioner did not complete his interview by the due date?

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 13, 2016, the Petitioner applied for FAP benefits. Department Exhibit 1, pgs. 1-5 and 18-20.
2. On March 16, 2016, the Department sent the Petitioner an Appointment Notice, DHS 170 for a FAP interview on March 22, 2016 at 9 a.m. Department Exhibit 1, pg.16.
3. On March 22, 2016, the Department Caseworker called late for the telephone interview and there was no answer so she left a message. Department Exhibit 1, pg. 21.

4. On March 22, 2016, the Department Caseworker sent the Petitioner a Notice of Missed Interview, DHS 254, providing contact information for the Petitioner to call her back to complete the required interview for FAP benefits. Department Exhibit 1, pg. 17.
5. According to the Department Caseworker logs, she called the Petitioner and left message on March 24, 2016, March 29, 2016, and April 8, 2016 to complete the FAP interview. Department Exhibit 1, pg. 22.
6. On April 12, 2016, the Department Caseworker sent the Petitioner an Application Notice, DHS 1150 that his FAP application was denied because he failed to complete his interview. Department Exhibit 1, pgs. 22-23.
7. On April 20, 2016, the Department received a hearing request from the Petitioner, contesting the Department's negative action.

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 Petitioner applied for FAP benefits on March 13, 2016. Department Exhibit 1, pgs. 1-5 and 18-20. On March 16, 2016, the Department sent the Petitioner an Appointment Notice, DHS 170 for a FAP interview on March 22, 2016 at 9 a.m. Department Exhibit 1, pg.16. On March 22, 2016, the Department Caseworker called late for the telephone interview and there was no answer so she left a message. Department Exhibit 1, pg. 21. On March 22, 2016, the Department Caseworker sent the Petitioner a Notice of Missed Interview, DHS 254, providing contact information for the Petitioner to call her back to complete the required interview for FAP benefits. Department Exhibit 1, pg. 17. According to the Department Caseworker logs, she called the Petitioner and left message on March 24, 2016, March 29, 2016, and April 8, 2016 to complete the FAP interview. Department Exhibit 1, pg. 22. On April 12, 2016, the Department Caseworker sent the Petitioner an Application Notice, DHS 1150 that his FAP application was denied because he failed to complete his interview. Department Exhibit 1, pgs. 22-23. On April 20, 2016, the Department received a hearing request from the Petitioner, contesting the Department's negative action. BAM 115

During the hearing, the Petitioner stated that he called the Department Caseworker back and she stated that she called him back. He asked her to call him at work, but stated that she did not call him at work, but left a message for him at home. When he called her back, he left a message. The Petitioner stated that he stayed home from work for the first interview, but the Department Caseworker called him later. Since there was so many calls between the parties back and forth to no avail, the Department Caseworker should have sent a notice with an interview meeting like the first interview meeting and called at that time. The Petitioner was trying to comply and so was the Department Caseworker, but since messages were not specific enough to reach the parties then a specific date and time should have been set.


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 denied the Petitioner's FAP application for not completing the interview even after the Petitioner and the Department Caseworker had been playing phone tag.

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 of initiating a redetermination of the Petitioner's eligibility for FAP retroactive to his FAP application dated March 13, 2016, by sending out a new Appointment Notice, DHS 170 for a FAP interview.

Based on policy, the Department should provide the Petitioner with written notification of the Department's revised eligibility determination and issue the Petitioner any retroactive benefits she/he may be eligible to receive, if any.



Carmen G. Fahie

Carmen G. Fahie

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

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED] [REDACTED]
[REDACTED]

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED] [REDACTED]