

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED]

Claimant

Reg. No: 2009-27584
Issue No: 3008
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
July 30, 2009
Kent County DHS

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; and MCL 400.37 upon claimant's request for a hearing. After due notice, a hearing was held on July 30, 2009. Claimant appeared and testified.

ISSUE

Did the Department of Human Services properly close Claimant's Food Assistance Program (FAP) case for failure to provide required information?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

(1) Claimant was an ongoing recipient of Food Assistance Program (FAP) benefits. Claimant's Food Assistance Program (FAP) case was due for a 6 month review by April 30, 2009.

(2) On March 1, 2009, Claimant was sent a Semi-Annual Contact Report (DHS-1046) to be filled out and returned by 4/1/09. The report was automatically generated and sent out by computerized action.

(3) On April 30, 2009, the Department had not received the required Semi-Annual Contact Report (DHS-1046) and Claimant's Food Assistance Program (FAP) case automatically closed. Claimant was sent a Notice of Case Action (DHS-1605) which was generated and sent out by computerized action.

(4) On May 26, 2009, Claimant submitted a request for hearing.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) (formerly known as the Food Stamp (FS) program) is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or department) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

Claimant does not dispute that the required Semi-Annual Contact Report (DHS-1046) was not returned by the due date. Claimant asserts she never received the form. Claimant had a consistent address during the sequence of events. Claimant did receive the automatically generated Notice of Case Action (DHS-1605). [The proper mailing and addressing of a letter creates a presumption of receipt. That presumption may be rebutted by evidence.](#) *Stacey v Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976). Claimant's husband testified of past problems with mail delivery. He

described that a few times they did not receive any mail for two to three days and then would get a lot of mail in one day. The evidence in this record does not rebut the presumption of receipt.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department of Human Services properly closed Claimant's Food Assistance Program (FAP) case for failure to provide required information.

It is ORDERED that the actions of the Department of Human Services, in this matter, are UPHELD.

/s/


Gary F. Heisler
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: August 3, 2009

Date Mailed: August 4, 2009

NOTICE: Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 60 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

GFH 

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