

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: 2009-36351
Issue No: 3008
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
October 19, 2009
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

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 October 19, 2009.

ISSUE

Was the claimant's FAP application properly denied for a failure to provide verifications?

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 applied for FAP in Wayne County.
- (2) On June 29, 2009, claimant was sent a DHS-3503, Verification Checklist, with an interview scheduled for July 9, 2009.
- (3) Claimant testified that she never got this notice.
- (4) Claimant did not attend the interview, and did not turn in verifications.

- (5) On August 27, 2009, claimant's FAP application was denied for a failure to return verifications.
- (6) On August 25, 2009, two days before notice of denial was sent, DHS received a request for hearing, which stated that claimant had waited two months since filing for assistance and had heard nothing.

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

A DHS-1171, Assistance Application must be completed when eligibility is determined. BAM 210. An application is considered incomplete until it contains enough information to determine eligibility. BAM 115. Eligibility is determined through a claimant's verbal and written statements; however, verification is required to establish the accuracy of a claimant's verbal and written statements. Verification must be obtained when required by policy, or when information regarding an eligibility factor is incomplete, inconsistent, or contradictory. An application that remains incomplete may be denied. BAM 130. All sources of income must be verified. BEM 500.

In the current case, the Department contends that claimant did not return any of her verifications, as required by the regulations, and was therefore cut-off of her benefits because the Department was unable to determine eligibility.

Claimant contends that she did not receive the notifications of interview or the request for verifications, and therefore, could not have returned them as requested.

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).

This requires the claimant to have some sort of evidence that can prove that she did not receive the verification request. The Administrative Law Judge has determined that the claimant is credible, and thus finds her statement credible that she did not receive the verification request. The undersigned notes that the claimant submitted a hearing request two days before an official determination requesting information on the status of her case. The undersigned believes that the claimant would have no reason to phrase her request for hearing in such a manner if the claimant had actually received the verification request. Thus, the undersigned finds it highly likely that events unfolded as the claimant alleges. Furthermore, the claimant's demeanor, manner and testimony at the hearing painted a picture of credibility, and the undersigned, as the principal finder of fact, is willing to accept claimant's version of events.

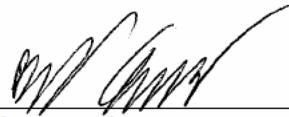
Therefore, it must be found that claimant did not receive her verification packet, and the Department should re-request the verifications.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department's decision to deny claimant's assistance application was incorrect.

Accordingly, the Department's decision in the above stated matter is, hereby,
REVERSED.

The Department is ORDERED to request the verifications necessary to determine FAP eligibility again. Claimant's filing date of June 29, 2009 is protected, and eligibility shall be determined as of that date. If claimant is found eligible for FAP benefits, benefits shall be retroactively issued to her filing date as is consistent with policy. _____



Robert J Chavez
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 12/17/09

Date Mailed: 12/21/09

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.

RJC/dj

cc:

