

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: 2009-22462

Issue No: 3008

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

June 18, 2009

Kent 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 June 18, 2009.

ISSUE

Was the claimant's FAP allotment properly cut off 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 was an FAP in Kent County.
- (2) In April, 2009, claimant was due for an annual re-determination with regard to her FAP benefits.

(3) On 4-3-09, claimant was sent a DHS-3503, Verification Checklist, with a 4-15-09 due date.

(4) Claimant was also told to call to schedule an interview on 4-15-09.

(5) The verification notice was addressed to [REDACTED] This address is incorrect.

(6) Claimant did not attend the interview, and did not turn in verifications by these dates.

(7) On 4-30-09, claimant's FAP benefits were stopped for a failure to return verifications.

(8) On 5-5-09, DHS received a request for hearing, which stated that claimant had never received any of the notices which asked for verification.

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).

A DHS-1171, Assistance Application must be completed when eligibility is re-determined. PAM 210. An application is considered incomplete until it contains enough information to determine eligibility. PAM 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. PAM 130. All sources of income must be verified. PEM 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 on 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).

The Department has not proven satisfactorily that they sent the claimant the notifications in a timely manner. The DHS-2063A, Continuing Your Food Stamps, is addressed to [REDACTED] [REDACTED] This is not the claimant's address. While the Department testifies that the DHS-3503, which had the correct address on it, was the form facing outward for mailing, the Administrative Law Judge does not find this credible, considering that the DHS-2063A would normally be the first sheet facing outward. At the very least, there is a strong suspicion, given claimant's testimony that something interfered with mail delivery. A wrong address would be such a thing.

Thus, the Department has not met its burden of proof showing that claimant was sent a correctly addressed redetermination packet. Therefore, it must be found that claimant did not

receive her verification packet. Therefore, the Department was in error when they closed claimant's case.

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 close claimant's case was incorrect.

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

The Department is ORDERED to remove all negative actions against the claimant in the above matter and restart the redetermination procedures.

/s/ _____
Robert J. Chavez
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: July 16, 2009

Date Mailed: July 16, 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 90 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/cv

cc:

