

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: 2010-14727
Issue No: 3008
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
February 17, 2010
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 February 17, 2010.

ISSUE

Was the claimant's FAP allotment properly calculated for a failure to provide verifications of employment?

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 a FAP recipient in Wayne County.
- (2) On November 2, 2009, claimant was sent a DHS-38, Employment Verification, in order to verify a reported stopped employment.
- (3) Claimant returned the form.
- (4) The Department never received the form.

- (5) A new budget was run on December 3, 2009 using claimant's verified UCB income and claimant's employment income.
- (6) This budget showed that claimant was now ineligible for a FAP allotment.
- (7) On December 3, 2009, claimant was notified that her FAP would be placed into closure.
- (8) Claimant attempted to contact the Department subsequent to the negative action notice to determine why her employment income had been used in the budget calculations, and attempt to remedy the situation.
- (9) The Department did not return the claimant's phone call.
- (10) On December 9, 2009, claimant requested a 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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

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. BAM 130. All sources of income must be verified. BEM 500. Decreases or stops in income, or an income change that results in an

increase in benefits must be verified. BEM 501. Verifications are due ten days after the initial request; however, this time limit may be extended at least once upon request. BAM 130.

In the current case, the Department contends that claimant did not return any of her verifications, as required by the regulations. This required that her employment income remain in any budget calculations, which in turn caused her FAP case to be closed for excess income.

Claimant contends that she did return the verifications in a regular envelope.

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).

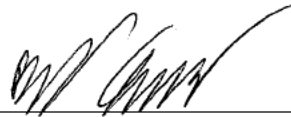
Claimant contends that she did receive the request for verifications, and returned them by standard mail. However, claimant was unable to produce any evidence that she properly mailed and addressed the letter. As such, claimant is not entitled to a presumption of receipt, even though her testimony is credible. However, claimant also testified, quite credibly, that she had called the Department to enquire as to why her income had been kept in her budget, when she had returned the requested verifications. The Department testified that while they don't remember the specific call, they had many calls and don't return phone calls as a matter of course. Given the Department's proclivities towards returning or keeping phone messages, the undersigned finds that the claimant did attempt to contact the Department before case closure to remedy the situation. As such, the proverbial ball was in the Department's court, and claimant should have been given another chance to return the requested verification.

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 FAP case 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 is ORDERED to return said verifications in a timely manner, consistent with the policy found in BAM 130. Upon receipt of the verifications, in a timely manner, claimant's budget shall be recalculated retroactively to the date of the negative action.



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

Date Signed: 04/29/10

Date Mailed: 04/29/10

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:

