

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: 2010-17150
Issue No: 3008
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
March 9, 2010
Kent County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne L. Keegstra

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 telephone hearing was held on March 9, 2010. The claimant personally appeared and provided testimony.

ISSUE

Did the department properly terminate the claimant's Food Assistance Program (FAP) benefits for failure to return the required redetermination materials in December, 2009?

FINDINGS OF FACT

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

1. The claimant's FAP case came due for a redetermination during the month of December, 2009. (Department Exhibit 1).

2. The claimant was mailed a Semi-Annual Contact Report (DHS-1046) on November 3, 2009, to her address in Newaygo. The completed report was due back to the department by December 1, 2009. (Department Exhibit 13 - 14).

3. On November 17, 2009, the claimant called and reported that she had moved to Rockford, Michigan and requested a transfer to Kent County DHS. (Department Exhibit 15).

4. On December 10, 2009, the claimant was mailed a Notice of Potential FAP Closure (DHS-1046-A) on December 10, 2009 (mailed to the Rockford address), informing her that the Semi-Annual Contact form had not been received and that her case would close if she did not return the form. (Department Exhibit 12).

5. The claimant did not return the form and her case closed on December 31, 2009. (Department Exhibit 3).

6. The claimant was mailed a Notice of Case Action (DHS-1605) on December 31, 2009, informing her that her case was closed. (Department Exhibit 8 – 11).

7. The claimant submitted a hearing request on January 11, 2010.

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).

Department policy states:

CLIENT OR AUTHORIZED REPRESENTATIVE RESPONSIBILITIES

Responsibility to Cooperate

All Programs

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of the necessary forms. PAM, Item 105, p. 5.

Refusal to Cooperate Penalties

All Programs

Clients who are able but refuse to provide necessary information or take a required action are subject to penalties. PAM, Item 105, p. 5.

Verifications

All Programs

Clients must take actions within their ability to obtain verifications. DHS staff must assist when necessary. See PAM 130 and PEM 702. PAM, Item 105, p. 8.

Assisting the Client

All Programs

The local office must assist clients who ask for help in completing forms (including the DCH-0733-D) or gathering verifications. Particular sensitivity must be shown to clients who are illiterate, disabled or **not** fluent in English. PAM, Item 105, p. 9.

Verification is usually required at application/redetermination **and** for a reported change affecting eligibility or benefit level. PAM, Item 130, p. 1.

Obtaining Verification

All Programs

Tell the client what verification is required, how to obtain it, and the due date (see “**Timeliness Standards**” in this item). Use the DHS-3503, Verification Checklist, or for MA redeterminations, the

DHS-1175, MA Determination Notice, to request verification. PAM, Item 130, p. 2.

The client must obtain required verification, but you must assist if they need and request help. PAM, Item 130, p. 2.

Timeliness Standards

All Programs (except TMAP)

Allow the client 10 calendar days (**or** other time limit specified in policy) to provide the verification you request. If the client cannot provide the verification despite a reasonable effort, extend the time limit at least once. PAM, Item 130, p. 4.

Send a negative action notice when:

- . the client indicates refusal to provide a verification, **or**
- . the time period given has elapsed and the client has not made a reasonable effort to provide it. PAM, Item 130, p. 4.

MA Only

Send a negative action notice when:

- . the client indicates refusal to provide a verification, **or**
- . the time period given has elapsed. PAM, Item 130, p. 4.

Department policy requires a FAP group with countable earnings and a 12 month benefit period to have a semi-annual contact. BAM 115. Department policy requires that a Semi-Annual Contact Report be completed and returned with any necessary verifications by the claimant. BAM 210.

In this case, the claimant testified that she did not receive any Semi-Annual Contact Form to complete and return to the department. The claimant testified that she moved from Newaygo to Rockford sometime during the second week of November, 2009. The claimant reported the move and county transfer on November 17, 2009. The Semi-Annual Contact Form was mailed to the claimant at her current address of record, in Newaygo on November 3, 2009. This was

prior to the claimant reporting any address change to the department and prior to when the claimant testified she moved (second week in November). Therefore, the claimant should have received the form prior to her move.

Further, the claimant was mailed a Notice of Potential FAP Closure on December 10, 2009, that informed her that she had not completed and returned the Semi-Annual Contact Report and that her FAP benefits would close if she did not return the form. The form also indicated that if the claimant needed another copy, she could contact her specialist at DHS. This form was mailed to the claimant at her Rockford address, well after she indicated she moved. Therefore, there is no reason why the claimant should not have received this documentation.

The claimant has the obligation to cooperate with the local office in determining initial and ongoing eligibility. This includes completion of the necessary forms. BAM 105. There is no reason why the claimant should not have received one or both of the notices for her redetermination. 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). In this case, the documentation and the claimant's testimony support that the department properly mailed and addressed the forms. Thus, the department properly let the claimant's case closed when the necessary documentation and verification was not returned by the claimant.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly terminated the claimant's FAP benefits because she did not return the required verifications for her semi-annual contact.

Accordingly, the department's actions are UPHeld. SO ORDERED.

/s/

Suzanne L. Keegstra
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: March 16, 2010

Date Mailed: March 17, 2010

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.

SLK 

cc:

