

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF THE CLAIM OF:

[REDACTED]

Reg. No.: 201027776
Issue No.: 3022
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: July 22, 2010
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Jeanne VanderHeide

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing. After due notice, a telephone hearing was conducted on July 22, 2010 from Detroit, Michigan. The Claimant appeared and testified. Claimant's daughter, [REDACTED] appeared as a witness. [REDACTED], ES and [REDACTED], FIM appeared on behalf of the Department.

ISSUE

Whether the Department properly closed the Claimant's Food Assistance Program ("FAP") benefits effective 1/30/10?

FINDINGS OF FACT

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

1. The Claimant was an active FAP and MA recipient who was up for redetermination.
2. On December 15, 2010, the Department mailed Claimant a redetermination packet along with a notice of telephone interview scheduled for 1/4/10. (Exhibit 1).

3. Claimant did not turn in the redetermination packet and, therefore, the 1/4/10 telephone interview did not occur.
4. Claimant testified that she never received the redetermination packet.
5. The Department also mailed Claimant a MA redetermination packet due back the beginning of March, 2010.
6. Effective January 30, 2010, the Department closed Claimant's FAP case for failure to complete redetermination.
7. Effective March 31, 2010, the Department closed Claimant's MA case for failure to complete redetermination.
8. Claimant reapplied for MA benefits before the end of March and a new MA case was opened 4/1/10. Claimant did not suffer any loss of MA benefits and MA is not at issue in this case.
9. The Department received Claimant's hearing request protesting the closure of FAP and MA benefits on March 12, 2010.

CONCLUSIONS OF LAW

The Food Assistance Program, 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"), formally known as the Family Independence Agency, administers the FAP program pursuant to MCL 400.10, *et. seq.* and MAC R 400.3001-3015. Departmental policies are found in the Bridges Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Reference Tables ("RFT").

Benefits will stop at the end of the benefit period unless a redetermination is completed and a new benefit period is certified. If the client does not complete the redetermination process, the benefit period is allowed to expire. The redetermination process begins when the client files a DHS-1171, Assistance Application, DHS-1010, Redetermination, DHS-1171, Filing Form, or DHS-2063B, Food Assistance Benefits Redetermination Filing Record. BAM 210, p. 2. The Department is required to conduct an in-person interview at redetermination before determining ongoing eligibility. BAM 210, p. 4.

Bridges generates a redetermination packet to the client three days prior to the negative action cut-off date in the month before the redetermination is due. This allows time to process the redetermination before the end of the redetermination month. The FAP redetermination must be completed by the end of the current benefit period so that the client can receive uninterrupted benefits by the normal issuance date. BAM 210, p. 12. In order to receive uninterrupted benefits, (benefits available on their scheduled issuance date) the client must file either a DHS-1010, Redetermination, DHS-1171, Assistance Application, or a DHS-2063B, Continuing Food Assistance Benefits, by the 15th of the redetermination month. BAM 210, p. 9. For FAP only, if the

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redetermination packet is not logged in on the Packet Received screen by the last working day of the redetermination month, Bridges automatically closes the EDG without generating a notice of closure. BAM 210, p. 8.

In this case, Claimant testified that she never received the redetermination packet in the mail. Claimant and her daughter testified that they did not have any problems receiving other notices from the Department. Furthermore, Claimant indicated that she had not had any problems receiving her mail in the past and the redetermination packet was properly addressed. 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 has not provided sufficient evidence in this case to rebut the presumption of receipt of mail.

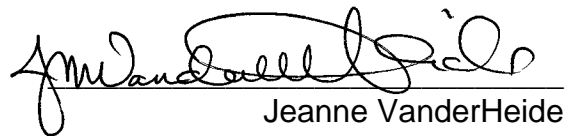
While, terminating the FAP benefits at the end of the certification period without any notice to Claimant is not a policy that this Administrative Law Judge personally agrees with, the undersigned finds that the Department properly terminated FAP benefits effective 1/30/10 according to policy. Based upon the foregoing facts and relevant law, it is found that the Department's determination is AFFIRMED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department properly terminated the Claimant's FAP benefits effective 1/30/10.

Accordingly, the Department's FAP determination is AFFIRMED.

/s/



Jeanne VanderHeide
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: July 28, 2010

Date Mailed: July 28, 2010

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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 mailing 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.

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