

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2010-41267
Issue No.: 3008/3019
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: August 16, 2010
Wayne County DHS (35)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 held on August 16, 2010. The claimant appeared and testified. [REDACTED], ES and [REDACTED], FIM appeared on behalf of the Department.

ISSUE

Whether the Department properly closed the Claimant's FAP case due to Claimant's failure to return information requested by the Verification Checklist by the due date?

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 applied for FAP benefits and her application was denied because the requested verifications of loss of employment was not received by the due date of 5/10/10 set by the Verification Checklist sent out by the Department. Exhibit 1
- 2) The Claimant provided the additional information on June 14, 2010 but had not provided the department the proof of loss of employment from her employer by the May 10, 2010 deadline required by the Verification Checklist sent to the Claimant on April 29, 2010. Exhibit 1
- 3) The Claimant testified that she did not recall receiving a verification checklist from the Department requesting the information.

- 4) The Department received only one pay stub and requested another pay stub as well as verification of loss of employment. The Department never received the requested information until June 14, 2010.
- 5) The Department through the caseworker assisted the Claimant by sending a request for verification of termination of employment to the Claimant's out of state employer but did not receive a response to its request.
- 6) The Claimant testified at the hearing that she did have a letter from her former employer verifying her employment termination but did not bring it to the hearing.
- 7) The Claimant requested a hearing protesting the dismissal of her application for food assistance. The Claimant's hearing request was received by the Department on June 25, 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 (formerly known as the Family Independence Agency) administers the FAP program pursuant to CML 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).

Clients must cooperate with the local office in determining initial and ongoing eligibility to provide verification. BAM 130, p. 1. The questionable information might be from the client or a third party. *Id.* The Department can use documents, collateral contacts or home calls to verify information. *Id.* The client should be allowed 10 calendar days to provide the verification. If the client cannot provide the verification despite a reasonable effort, the time limit to provide should be extended at least once. BAM 130, p.4; BEM 702. If the client refuses to provide the information or has not made a reasonable effort within the specified time period, then policy directs that a negative action be issued. BAM 130, p. 4. Before making an eligibility determination, however, the department must give the client a reasonable opportunity to resolve any discrepancy between his statements and information from another source. BAM 130, p. 6.

The Department is required to verify loss of employment and income at application and when a change is reported. If the client fails to verify these items the Department must close the Claimant's case for failure to verify the requested information. BEM 554, p. 11.

In this case, the Department mailed out a Verification Checklist seeking verification of loss of employment on April 29, 2010 to the Claimant at the address confirmed by the Claimant as her correct address , but the claimant claimed not to have received the letter. 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 Claimant did receive the Department's Notice of Case Action denying her application which was also mailed to the same address. Under these circumstances the claimant's testimony that she did not receive the requested Verification Checklist does not rebut the presumption of receipt particularly because the Claimant did receive the Notice of Case Action mailed to the same address.

The Claimant is encouraged to reapply for FAP benefits immediately as it does appear that the requested information is now available and to provide the Department at the time of application the proper verification of the claimant's loss of employment.

The undersigned finds that the Department properly denied claimant's application for FAP benefits and that the Claimant did not provide requested information in the time provided.

Accordingly, it is found that the Department's closure of the Claimant's application for FAP benefits was proper and is AFFIRMED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that there was insufficient evidence presented to affirm the Department's actions.

Accordingly, it is held:

The Department's Determination by Notice of Case Action of June 23 2010 closing the Claimant's FAP case is hereby AFFIRMED.



Lynn M. Ferris
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

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Date Signed: 8/24/2010

Date Mailed: 8/24/2010

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 of the rehearing decision.

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