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

IN THE MATTER OF:



Reg. No: 201051143

Issue No: 3008

Case No: Load No:

Hearing Date:

September 28, 2010 Genesee County DHS

ADMINISTRATIVE LAW JUDGE: Kevin Scully

## **HEARING DECISION**

This matter is before the undersigned Administ rative Law Judge by authority of MC L 400.9 and MCL 400.37. Claimant's request fo r a hearing was r eceived on August 23, 2010. After due notice, a telephone hearing was held on Tuesday, September 28, 2010.

# <u>ISSUE</u>

Whether the Department of Human Serv ices (Department) properly det ermined the Claimant's Food Assistance Program (FAP) eligibility?

## 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 was an ongoing FAP recipient.
- 2. On July 26, 2010, the Department sent the Claimant a Verification Checklist with a due date of August 5, 2010.
- 3. On Augus t 17, 2010, the Department notified the Claimant that it was terminating his FAP benefits effective September 1, 2010.
- The Department received the Claimant's request for a hearing on August 23, 2010, protesting the Notice of Case Action the Department sent on August 17. 2010.

# **CONCLUSIONS OF LAW**

The Food Assistance Program (FAP) (formerly known as the Food Stamp 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), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes the completion of necessary forms. BAM 105, p. 5. Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. BAM 130, p. 1. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level when it is r equired by policy, required as a local office option, or information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. BAM 130, p. 1. The Department uses docum ents, collateral contacts, or home calls to verify information. BAM 130, p. 1. A collateral contact is a direct contact with a person, organization, or agency to verify information from the client. BAM 130, p. 2. When documentation is not available, or clarific ation is needed, collateral contact may be necessary. BAM 130.

Clients must report changes in circumstance that pot entially affect eligibility or benefit amount within 10 day s of receiving the first payment reflecting the change. BAM 105. Income reporting requirements are limited to the following:

#### Earned income:

- Starting or stopping employment.
- Changing employers.
- Change in rate of pay.
- Change in work hours of more than five hours per week that is expected to continue for more than one month.

# Unearned income:

- Starting or stopping a source of unearned income.
- Change in gross monthly income of more than \$50 since the last reported change.

# Other changes:

- Persons in the home.
- Marital status.
- Address and shelter cost changes that result from the move.
- Vehic les.
- Assets.
- Child support expenses paid.
- Health or hospital coverage and premiums.
- Day care needs or providers. BAM 105

The Claimant was an ongoing F AP recipient when the Department conducted a routine review of his eligibility to receive benefits. When the Claimant reported that he had started new employment, the Department sent him a Verific ation Checklist with a due date of August 5, 2010. When the Department did not receive verification of the Claimant's income, it terminated the Claimant's FAP benefit seffective September 1, 2010.

The Claimant argued that he did not receive page two of the Notice of Action mailed on August 17, 2010, which notified him that his FAP benefits would be terminated.

The Department testified that page two of the Notice of Case Action was located on the back of page one, and that it was properly mailed to the Claimant.

The Claimant argued that he did not receive a copy of the Verification Checklist.

The Department testified that it mailed the Verification Check list to the Claimant's correct mailing address. The proper mailing and a ddressing of a letter creates a presumption of receipt. That presume ption 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 failed to rebut the presumption of receipt.

Based on the testimony and evidence presented during the hearing, the Department established that it properly terminated the Claimant's FAP benefits for failure to provide information necessary to determine eligibility.

# **DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusion sof law, decides that the Diepartment acted in accordance with policy in determining the Claimant's FAP eligibility.

The Department's FAP eligibility determination is AFFIRMED. It is SO ORDERED.

\_\_\_\_/s/
Kevin Scully
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: October 6, 2010

Date Mailed: October 7, 2010

**NOTICE**: Administrative Hearings may or der 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 Hear ings will not orde rarehearing 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.

KS/alc

