

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.: 201052092
Issue No.: 3003
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: September 30, 2010
Wayne County DHS (76)

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 September 30, 2010. The claimant appeared and testified. The Department was represented by [REDACTED], ES, who appeared and testified on behalf of the Department.

ISSUE

Whether the Department properly closed the Claimant's FAP case due to Claimant's failure to return verification information requested in a timely manner?

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 is a FAP recipient.
- 2) The Claimant was subject to an annual review and redetermination and was sent notice of a phone interview on June 15, 2010 and Notice of Missed Interview on July 1, 2010.
- 3) The Claimant did not respond to either notice testifying that he did not receive them. The notices were sent to RM 66A, 1627 W. Fort St. Detroit, MI 48216, which was the address of the Salvation Army rehabilitation facility.
- 4) The Department sent the verification requests to that address based on a telephone call and confirming the fax information that it received

advising the department that the claimant had voluntarily entered the Salvation Army rehabilitation program, a six-month program, on March 29, 2010 for drug and/or alcohol rehabilitation. Exhibit 1

- 5) The claimant's case worker also spoke directly with the Salvation Army and confirmed that the claimant's correct address was the one where the verification requests were set.
- 6) The claimant testified that he did not attend the program and only went to the Salvation Army to obtain clothing.
- 7) The department closed the claimant's food assistance case on July 31, 2010 for failure to participate in the annual review.
- 8) The claimant's FAP case reopened when he reapplied on August 23, 2010. The claimant is currently receiving FAP benefits.
- 9) On August 31, 2010 the claimant requested a hearing protesting the closure of his FAP case. The hearing request was received by the department on September 8, 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).

FAP BENEFITS ANALYSIS

Clients must cooperate with the local office in determining initial and ongoing eligibility to provide verification. BAM 130, p. 1. The 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

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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 annually verify income and other information or when a change is reported. BEM 554, p. 11.

In this case, the Department mailed out a verification checklist to be last known address made available to it on behalf of the Claimant by the Salvation Army. The department acted reasonably in this instance and utilized the best information it had available to attempt to reach the claimant to conduct the annual review it is required to conduct to continue the claimant's FAP benefits. Exhibit 1. During the hearing the claimant denied living at the Salvation Army during the period in question and it appears that his testimony is lacking in credibility based upon the documents submitted by the department from an independent third party, the Salvation Army. Exhibit 1 id.

The documents provided to the department and verified by telephone by the claimant's case worker clearly indicated that the claimant had voluntarily committed himself to a drug/alcohol rehabilitation program for a six month. Thus given this information, the department acted reasonably in sending the requested verification information to that address as well as closing the claimant's FAP case when no response was received. This result may have been different had the claimant indicated that he was undergoing drug/alcohol treatment and was unavailable or unable to respond. That not being the case, the department is deemed to have acted properly in closing the claimant's FAP benefits for failure to respond to the requested verification. This decision is also influenced by the presumption that mail which is properly addressed is presumed to be received. Based on the claimant's testimony the presumption of receipt has not been rebutted by the claimant.

Based upon the foregoing facts and relevant law, it is found that the Department's decision to close Claimant's FAP case is AFFIRMED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the evidence presented at the hearing did support the decision of the Department to close the Claimant's FAP case for failure to respond to the request for verification and telephone interview therefore its action close in the claimant's FAP case is AFFIRMED.



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

Date Signed: 10/06/2010

Date Mailed: 10/06/2010

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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