

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: 20101481
Issue No: 3008
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
November 9, 2009
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

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 hearing was held on November 9, 2009.

ISSUE

Was the claimant's FAP application properly denied for a failure to provide verifications?

FINDINGS OF FACT

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

- (1) Claimant applied for FAP in Wayne County.
- (2) Claimant may have been receiving FAP at this point; however, the documentary evidence in the case file is unclear as to whether the case at hand was a redetermination or a new application.

- (3) Claimant is mentally disabled, has a legal guardian, and currently resides in a group home. Claimant's disability renders her unable to communicate effectively.
- (4) On March 24, 2009, claimant was sent a DHS-3503, Verification Checklist, with a due date of April 3, 2009, possibly as part of a redetermination.
- (5) This notice was sent directly to the group home.
- (6) The manager of the group home did not assist claimant with the submission of the verifications, as he was required.
- (7) The manager of the group home was subsequently fired for a failure to adequately take care of his charges.
- (8) Claimant was unable to provide the verifications on her own, due to her disability.
- (9) Claimant has a legal guardian, but the papers were not sent to the legal guardian.
- (10) On April 13, 2009, claimant's FAP application or redetermination was denied for a failure to return verifications
- (11) On September 10, 2009, DHS received a request for hearing from the new manager of the home, on behalf of the claimant.

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

While the hearing request was untimely, given the circumstances of the case, and the testimony of the home manager, the undersigned found that the claimant had good cause for her failure to request the hearing in a timely manner, and proceeded with the hearing in accordance with the rules found in BAM 600.

A DHS-1171, Assistance Application must be completed when eligibility is determined. BAM 210. An application is considered incomplete until it contains enough information to determine eligibility. BAM 115. Eligibility is determined through a claimant's verbal and written statements; however, verification is required to establish the accuracy of a claimant's verbal and written statements. Verification must be obtained when required by policy, or when information regarding an eligibility factor is incomplete, inconsistent, or contradictory. An application that remains incomplete may be denied. BAM 130. All sources of income must be verified. BEM 500.

In the current case, the Department contends that claimant did not return any of her verifications, as required by the regulations, and was therefore cut-off of her benefits because the Department was unable to determine eligibility.

Claimant contends, through her representatives, that she was the victim of incompetence at the home she was living at, and the person responsible for her care did not return the verifications as required in a timely manner.

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).

This requires the claimant to have some sort of evidence that can prove that she did not receive the verification request. The Administrative Law Judge has determined that the

testimony of the claimant's witnesses is credible; the person responsible for claimant's care did not fulfill the responsibilities of his job, and as a result, claimant lost or did not receive her FAP eligibility.

The undersigned, given the extreme circumstances of the case, cannot in good conscience, hold this failure against the claimant. While the verifications were not returned, the failure of claimant's caretaker in this situation created a case analogous to one where claimant did not receive the packet. Those who could have helped her gain or retain eligibility were not notified, and thus, the undersigned believes that claimant might as well never have received the packet in question. Therefore, the undersigned finds that claimant had cause for not returning her verifications.

Therefore, it must be found that claimant did not receive her verification packet, and the Department should re-request the verifications.

During the hearing, claimant's legal guardian agreed that she should receive copies of all requested information, and the undersigned will order that copies be sent to this person in the future, in order to avoid such situations.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department's decision to deny claimant's assistance application was incorrect.

Accordingly, the Department's decision in the above stated matter is, hereby,
REVERSED.

The Department is **ORDERED** to request the verifications necessary to determine FAP eligibility again. Claimant shall have 10 days to provide verifications, in accordance with the

Bridges Administrative Manuals. Claimant's filing date of March 12, 2009 is protected, and eligibility shall be determined as of that date. If claimant is found eligible for FAP benefits, benefits shall be retroactively issued to her filing date as is consistent with policy.

The Department is FURTHER ORDERED to send copies of all future correspondence to claimant's legal guardian as well.



Robert J. Chavez
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 12/22/09

Date Mailed: 01/06/09

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.

RJC/dj

cc:

