

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: 2010-1501
Issue No: 3008
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
January 4, 2010
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 January 4, 2010.

ISSUE

Was the claimant's FAP application properly denied for a failure to provide verification of an authorized representative?

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 was an FAP applicant in Wayne County.
- (2) The Department was alerted to the fact that claimant had been convicted of a drug-related felony in the past.

- (3) On August 25, 2009, claimant was sent a DHS-3503, Verification Checklist, requesting verification of an authorized representative.
- (4) Claimant did not return verification of an authorized representative.
- (5) Claimant's application was denied on September 22, 2009.
- (6) On October 15, 2009, claimant requested a hearing.

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 (B AM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

A DHS-1171, Assistance Application must be completed when eligibility is re-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.

In the current case, the Department contends that claimant did not return verification of an authorized representative, as required by the regulations, and his application was therefore denied.

Claimant stated that he did not remember receiving a verification checklist requesting an authorized representative.

It is undisputed that BEM 203 requires FAP applicants with drug-related felony convictions to submit to the Department an authorized representative. It is also undisputed that claimant did not do so.

Therefore, our only question is whether claimant was notified of the need for verification of an authorized representative.

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).

The Department has proven satisfactorily that they sent the claimant the notifications in a timely manner. The burden of proof falls upon the claimant to provide some sort of evidence that indicates he never received the packet. Unfortunately, claimant was unable to do so. While claimant testified that he did not remember receiving the verifications, claimant's testimony was contradictory and unreliable. Claimant testified that he has had no trouble receiving his mail in the past. Claimant furthermore received the denial of his application, which lends further credence to the Department's contention that claimant had received the verification checklist.

Thus, claimant is unable to meet his burden of proof. Therefore, it must be found that claimant received his verification checklist. As claimant did not return the verifications of an authorized representative, the Department was unable to award FAP benefits to claimant. Thus, the Department was correct when they denied claimant's FAP application.

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 FAP application was correct.

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



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

Date Signed: 03/01/10

Date Mailed: 03/05/10

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:

