

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: 2010-17203

Issue No: 3008, 3019

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

March 17, 2010

Wayne County DHS

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 received by the Department on February 29, 2009. After due notice, a telephone hearing was conducted from Detroit, Michigan on March 17, 2009. The Claimant and her mother, [REDACTED] appeared and testified. Deborah Wilson and Terri Young 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, including shelter verification?

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 Food Assistance Program ("FAP") benefits on December 30, 2009.

2. The claimant applied for FAP benefits online.
3. On the same date that claimant applied, the Department sent out a Verification Checklist requesting that the Claimant provide verification of shelter expenses and income by January 15, 2009. (Exhibit 8)
4. The Department never received the requested verification information from the Claimant.
5. On January 16, 2009, the Department sent a Notice of Case Action denying the Claimant's application for FAP benefits because it did not receive the requested verifications and the claimant had excess earnings. (Exhibit 9)
6. The Claimant did receive the Department's Notice of Case Action of January 16, 2009.
7. The claimant's address is [REDACTED]. The Verification Checklist and the Notice of Case Action were sent to the same address. (Exhibits 8 and 9)
8. The Claimant's shelter expenses were not included in the Claimant's FAP budget as the Department had no shelter expense information. (Exhibit 6)
9. At the time of the Claimant's application, the claimant's earnings were \$1,341.60.
10. The Claimant did not indicate during the hearing any difficulty receiving her mail.
11. On February 1, 2010, the Department received the Claimant's Request for Hearing protesting the denial of FAP benefits.

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 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).

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 shelter expenses at application and when a change is reported. If the client fails to verify shelter expense the Department must closed 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 shelter verification and income verification to the Claimant's 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.

The Claimant is encouraged to reapply for FAP benefits and to provide the Department, at the time of application, proper verification of current income and shelter expenses to expedite the process.

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.

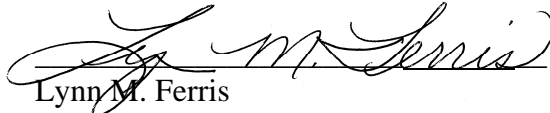
Accordingly, it is found that the Department's closure of the Claimant's application for FAP benefits was proper and is AFFIRMED.

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 ORDERED:

1. The Department's denial of the Claimant application for FAP benefits is AFFIRMED.



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

Date Signed: 03/26/10

Date Mailed: 03/26/10

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

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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.

LMF/dj

cc:

