

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: 2010-39075
Issue No: 3008
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
July 13, 2010
Kalamazoo County DHS

ADMINISTRATIVE LAW JUDGE: Kevin Scully

HEARING DECISION

This matter is before the undersigned Administrative Law Judge by authority of MCL 400.9 and MCL 400.37. Claimant's request for a hearing was received on June 10, 2010. After due notice, a telephone hearing was held on Tuesday, July 13, 2010.

ISSUE

Whether the Department of Human Services (Department) properly determined 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 received FAP benefits until June 1, 2010.
- (2) The Department sent the Claimant a Redetermination form on April 14, 2010, with a due date of May 3, 2010. Department Exhibit 2.

(3) The Department sent the Claimant a Verification Checklist form on April 22, 2010, with a due date of May 15, 2010. Department Exhibit 6.

(4) The Department sent the Claimant a Verification of Employment form on April 22, 2010. Department Exhibit 7.

(5) The Department sent the Claimant a Notice of Missed Interview form on May 3, 2010. Department Exhibit 1.

(4) The Department terminated the Claimant's FAP benefits as of June 1, 2010.

(5) The Department received the Claimant's request for a hearing on June 10, 2010, protesting the termination of her FAP benefits.

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 required 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 documents, 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 clarification is needed, collateral contact may be necessary. BAM 130.

Clients are allowed 10 calendar days (or other time limited specified in policy) to provide the verifications requested by the Department. BAM 130, p. 4. If the client cannot provide the verification despite a reasonable effort, the time limit should be extended no more than once. BAM 130, p. 4. A negative action notice should be sent when the client indicates a refusal to provide the verification or the time period provided has lapsed and the client had not made a reasonable effort to provide it. BAM 130.

The Claimant was a FAP recipient. On April 14, 2010, the Department sent the Claimant a Redetermination Form with a due date of May 3, 2010. This form instructed the Claimant to fill out the form and return it to the Department's office in time for a telephone interview on May 3, 2010. The Department did not receive the completed form, and the Claimant did not participate in the telephone interview. On May 27, 2010, the Claimant called the Department about her FAP benefits. The Department sent the Claimant a duplicate Redetermination Form, but the Claimant failed to return this form as well. The Department then terminated the Claimant's FAP benefits.

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 failed to rebut the presumption of receipt. The Claimant did not offer any evidence or testimony to rebut the presumption that she received the forms the Department sent to her.

The Claimant argued that her caseworker is rude to her and that there are communication problems between the two of them. The Claimant argued that the personality conflict with her caseworker is a barrier to receiving benefits from the Department. The claimant's grievance is not within the scope of authority delegated to this Administrative Law Judge. This Administrative Law Judge does not possess the authority to regulate customer service within the Department's office, and the proper venue for complaints such as this begins with a caseworker's immediate supervisor. Although the Claimant may have had problems with her caseworker, this did not alleviate her duty to submit verification documents to the Department in a timely manner.

Based on the evidence and testimony presented during the hearing, I find that the Department established that it acted in accordance with policy when it terminated the Claimant's FAP benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department 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: July 14, 2010

Date Mailed: July 14, 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 date of the rehearing decision.

KS/vc

cc:

