

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No: 2011-27424
Issue No: 3008

[REDACTED]

DHS-SSPC-WEST

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

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 received on April 5, 2011. After due notice, a telephone hearing was held on [REDACTED]. Claimant personally appeared and provided testimony.

ISSUE

Whether the department properly denied Claimant's Food Assistance Program (FAP) application based on her failure to verify rent and income?

FINDINGS OF FACT

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

1. On February 8, 2011, Claimant applied for Food Assistance Program (FAP) benefits through Self Service online. (Department Exhibits 4-29).
2. The department mailed Claimant an Appointment Notice on February 8, 2011, informing her that she was scheduled for a telephone interview with the department on [REDACTED] (Department Exhibit 31).
3. On February 11, 2011, the department mailed Claimant a Notice of Missed Interview informing her that she had missed her scheduled interview for her FAP application and it was now her responsibility to contact the department for an interview before 3/10/11. (Department Exhibit 32).

4. The department also mailed Claimant a Verification Checklist on February 11, 2011, requesting proof of her rent and income, by February 22, 2011. (Department Exhibits 33-34).
5. On March 3, 2011, the department mailed Claimant a Notice of Case Action denying Claimant's FAP application for failure to return the requested verifications. (Department Exhibits 35-36).
6. Claimant submitted a hearing request on April 5, 2011, protesting the denial of her FAP benefits. (Request for a Hearing).

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. MAC R 400.903(1).

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness. BAM 600.

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).

Department policy states that clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of the necessary forms. Clients who are able but refuse to provide necessary information or take a required action are subject to penalties. Clients must take actions within their ability to obtain verifications. BAM 105.

The department must assist when necessary. The local office must assist clients who ask for help in completing forms (including the DCH-0733-D) or gathering verifications. Particular sensitivity must be shown to clients who are illiterate, disabled or not fluent in English. BAM 105. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130.

The department uses the Verification Checklist, DHS-3503, to tell the client what verification is required, how to obtain it and the due date. The client must obtain the

required verification, but the department must assist if they need and request help. BAM 130.

A client is allowed 10 calendar days (or other time limit specified in policy) to provide the verification requested by the department. The department sends a negative action notice when the client indicates refusal to provide a verification, or the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130.

In this case, Claimant applied for FAP online through Self Service on February 8, 2011. Claimant was mailed an Appointment Notice on February 8, 2011, instructing her that she was scheduled for a telephone interview on February 11, 2011 at 9:30 A.M. The notice explained that if she was unable to keep the appointment for any reason, she was to contact the department prior to the appointment date to reschedule the interview.

On February 11, 2011, the department mailed Claimant a Notice of Missed Interview informing Claimant she had until March 10, 2011 to contact the department and reschedule her telephone interview. The department also mailed Claimant a Verification Checklist instructing her to provide verification of rent and income before February 22, 2011. On March 3, 2011, the department mailed Claimant a Notice of Case Action informing her that she had been denied for failure to return verifications.

Claimant testified that she never received any of the documents from the department until her neighbor handed her a pile of mail sometime after she asked for the hearing. Claimant explained that she lived in a student townhouse and that her mailbox had been off the hinges with no letters on it. Claimant said that her landlord has since put letters back on the mailbox, but initially she had not been receiving her mail.

The department did not have any information in Claimant's file indicating that the Appointment Notice, Notice of Missed Interview or Verification Checklist was returned as undeliverable. 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 record was left open until May 12, 2011, to allow Claimant to obtain documentation from her landlord explaining her inability to receive mail at her home. However, Claimant failed to provide credible, material, and substantial evidence to rebut the presumption of receipt as the department mailed all correspondence to Claimant's address of record and Claimant did not submit any documentation to rebut it.

Based upon the competent, material and substantial evidence provided during the hearing, the Administrative Law Judge finds that Claimant did not make a reasonable effort to provide timely verification to the department. Therefore, the department properly 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 properly denied Claimant's FAP application for failure to submit the requested verifications.

Accordingly, the department's determination is UPHELD.

It is SO ORDERED.

_____/s/_____

Vicki L. Armstrong
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 5/17/11

Date Mailed: 5/17/11

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.

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