STATE OF MICHIGAN STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES ADMINISTRATIVE HEARINGS FOR THE DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

Reg. No: 2011-5345

Issue No: 3008

Case No: Load No:

Hearing Date:

December 15, 2010

SSPC-West County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne L. Morris

HEARING DECISION

This matter is before the undersigned Admini strative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon claimant's request for a hearing. After due notic e, a telephone hearing was held on December 15, 2010. The claimant appeared via telephone conference call and provided testimony.

ISSUE

Did the department properly deny the c laimant's F ood Assist ance Program (FAP) application for failure to return the required 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. The claimant submitted an applicat ion for FAP benefits on October 5, 2010. (Department Exhibit 16 27)
- 2. On October 18, 2010, the claim ant was m ailed a Verification Checklis t (DHS-3503) requiring the claimant to submit proof of US Citizenship, home rent and proof of w ages for both the claimant and were due to the department by October 28, 2010. (Department Exhibit 5 10)
- 3. The department did not receiv e the requested information and on November 1, 2010, the department mailed the claim ant a Notice of Cas e

Action (DHS-1605), informing the claim ant that his F AP application was denied. (Department Exhibit 12 - 15)

4. The claim ant submitted a hear ing request on November 10, 2010.

CONCLUSIONS OF LAW

The Food Assistanc e Program (FAP) (formerly known as the Food Stamp (FS) program) is establis hed by the Food St amp 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 Program Reference Manual (PRM).

Department policy states:

CLIENT OR AUTHORIZED REPRESENTATIVE RESPONSIBILITIES

Responsibility to Cooperate

All Programs

Clients must cooperate w ith the local office in determining initial and ongoing eligibility. This includes completion of the necessary forms. BAM, Item 105, p. 5.

Refusal to Cooperate Penalties

All Programs

Clients who are able but refu se to provide necessary information or take a required action are subject to penalties. BAM, Item 105, p. 5.

Verifications

All Programs

Clients must take actions with in their ability to obtain verifications. DHS staff must assist when necessary. See BAM 130 and BEM 702. BAM, Item 105, p. 8.

Assisting the Client

All Programs

The local office must assist clients who ask for help in completing forms (including the DCH-07 33-D) or gatherin g verifications. Particular sens itivity must be shown to c lients who are illiterate, disabled or **not** fluent in English. BAM, Item 105, p. 9.

Verification is usually required at application/redetermination **and** for a reported change affecting eligibility or benefit level. BAM, Item 130, p. 1.

Obtaining Verification

All Programs

Tell the client what verification is required, how to obtain it, and the due date (see "**Timeliness Standards**" in this item). Use the DHS-3503, Verifica tion Check list, or for MA redeterminations, the DHS-1175, MA Determination Notice, to request verification. BAM, Item 130, p. 2.

The client must obtain require d verification, but you must assist if they need and request help. BAM, Item 130, p. 2.

Timeliness Standards

All Programs (except TMAP)

Allow the client 10 calendar days (**or** other time limit specified in policy) to provide the verification you request. If the client can<u>not</u> provide the verification despite a reasonable effort, extend the time limit at least once. BAM, Item 130, p. 4.

Send a negative action notice when:

- . the client indicates refusal to provide a verification, or
- the time period given has elaps ed and the client has not made a reasonable effort to provide it. BAM, Item 130, p. 4.

In this case, the claimant is disputing the denial of his FAP applie ation for failure to submit the required verifications. Claimants are required to comply with the local office to allow the department to determine initial or ongoing eligibilit y. BAM 105. The

department informs the client what verification is required, how to obtain it, and the due date by using the Verification Checklis t form (DHS-3503). BAM 130. Clients are provided ten days to return the v erifications, but can request an ex tension of time to provide the verifications. BAM 130. If t he time period to provide the verifications elapses and the verifications have not bee n provided, the department is directed to send a negative action notice. BAM 130.

The claimant testified in the hearing that he did not receive the Verification Checklist or the Verific ations of Employm ent. The department did properly address the correspondence to the claimant's mailing address. The proper mailing and addressing of a letter creates a presument ption 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 claimant presented no evidence to rebut the presumption of receipt.

Department policy requires the department to deny the claimant's application if the time period to submit the verifications expires and no verifications have been received. As the claimant did not return any of the requestive ired verifications, the department properly denied the claimant's 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 the claimant's FAP application for failure to turn in the required verifications.

Accordingly, the department's actions are UPHELD. SO ORDERED.

Suzanne

L. Morris

Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: December 27, 2010

Date Mailed: December 27, 2010

NOTICE: Administrative Hearings may or der 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 Hear ings will not orde rarehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 60 days of the filing of the original request.

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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 ti mely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

SLM/alc

