

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

IN THE MATTER OF:

[REDACTED]

Reg. No:

[REDACTED]

[REDACTED]

ADMINISTRATIVE LAW JUDGE: [REDACTED]

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 [REDACTED]. After due notice, a telephone hearing was held on [REDACTED]. The Claimant was not present for the hearing, but was represented by her [REDACTED].

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 was an ongoing Food Assistance Program (FAP) recipient.
2. On [REDACTED], the Department sent the Claimant a Redetermination Telephone Interview form (DHS-574) with a due date of [REDACTED]. The Department instructed the Claimant to deliver all required verification documents to the Department before the due date.
3. On [REDACTED], the Department sent the Claimant a Missed Interview notice.

4. On [REDACTED] the Department notified the Claimant that it would terminate her FAP benefits as of [REDACTED] for benefits.
5. The Department received the Claimant's request for a hearing on [REDACTED] 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 ten calendar days to provide the verifications requested by the Department. BAM 130, p. 4. The Department should send a negative action notice when the client indicates a refusal to provide the verification, or the time period provided has lapsed and the client has not made a reasonable effort to provide it. BAM 130, p. 4. The Department should extend the time limit no more than once if the client cannot provide the verification despite a reasonable effort. BAM 130, p. 4.

In this case, the Claimant was an ongoing Food Assistance Program (FAP) recipient. On [REDACTED], the Department sent the Claimant a Redetermination Telephone Interview form (DHS-574) with a due date of [REDACTED]. The Department instructed the Claimant to deliver all required verification documents to the Department before the due date. On [REDACTED] the Department had not received the Claimant's completed Redetermination form or her required verification documents, and it sent the Claimant a Missed Interview notice. On [REDACTED] the Department notified the Claimant that it would terminate her FAP benefits as of

[REDACTED], for failure to provide information necessary to determine her eligibility to receive benefits.

The Claimant's representative testified that the Claimant had been in the hospital, and therefore did not receive the Redetermination Telephone Interview form before the due date.

The relief requested by the Claimant's representative is not unreasonable, but would require this Administrative Law Judge to create an exception to the Department's policies, which unfortunately are clear in this case. Administrative Law Judges have no authority to make decisions on constitutional grounds, overrule statutes, overrule promulgated regulations, or make exceptions to the department policy set out in the program manuals. Furthermore, administrative adjudication is an exercise of executive power rather than judicial power, and restricts the granting of equitable remedies.

[REDACTED]

The Department sent the Redetermination forms to the Claimant at her correct mailing address. The Department was not aware that the Claimant was in the hospital and was not receiving her mail in a timely manner. 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.

Based on the evidence and testimony available during the hearing, the Department has established that it acted in accordance with policy when it terminated the Claimant's FAP benefits for failure to provide information necessary to determine eligibility to receive 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/ _____


Date Signed: ___3/18/11_____

Date Mailed: ___3/18/11_____

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.

