

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]

ADMINISTRATIVE LAW JUDGE: [REDACTED]

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

ISSUE

Whether the department properly closed Claimant's Food Assistance Program (FAP) case based on 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 [REDACTED], Claimant applied for Food Assistance Program (FAP) benefits through Self Service online. (Department Exhibits 1-25).
2. On [REDACTED], the department mailed Claimant a Verification Checklist, requesting verification of his Veterans Compensation and rent, due by [REDACTED]. The department also mailed Claimant a Notice of Appointment for [REDACTED]. (Department Exhibits 26, 29).
3. On [REDACTED], Claimant failed to attend the scheduled FAP interview and the department sent Claimant an email at [REDACTED] in an attempt to contact him for the interview. Claimant did not answer and the department mailed Claimant a Notice of Missed Interview on [REDACTED], informing him that because he missed the interview, he now had

until [REDACTED] to contact the department or his FAP application would be denied. (Department Exhibits 27-28).

4. On [REDACTED] the department mailed Claimant a Notice of Case Action denying Claimant's FAP application for failure to interview requirements. (Department Exhibits 30-32).
5. Claimant submitted a hearing request on [REDACTED] protesting the denial of his 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.

Claimant applied for FAP online through Self Service on [REDACTED]. Claimant was mailed a Verification Checklist and Appointment Notice on [REDACTED]. The Verification Checklist instructed Claimant to provide verification of rent and Veterans Compensation before [REDACTED]. The Appointment Notice instructed Claimant that he was scheduled for a telephone interview on [REDACTED]. The notice explained that if he was unable to keep the appointment for any reason, he was to contact the department prior to the appointment date to reschedule the interview.

On [REDACTED] the department attempted to contact Claimant through email, because Claimant failed to provide a telephone number on his FAP application. Claimant did not respond to the department's email and the department mailed Claimant a Notice of Missed Interview informing him that it was now his responsibility to contact the department by [REDACTED], or his application would be denied. Claimant did not contact the department by [REDACTED], and the department mailed Claimant a Notice of Case Action informing him that his FAP application had been denied for failure to return verifications and participate in the scheduled interview.

Claimant testified that he did not receive the Appointment Notice and that he received the Notice of Missed Interview a day or two after [REDACTED]. Claimant stated that he did not call the department when he received the Notice of Missed Interview after the due date and he does not know why he did not include his telephone number on his initial FAP application.

The department did not have any information in Claimant's file indicating that the Appointment Notice 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). 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. Notably, the Verification Checklist and Appointment Notice were mailed on the same day, and Claimant received the Verification Checklist and submitted the requested verifications to the department on March 11, 2011, when he submitted his hearing request.

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 turn in the requested verifications.

Accordingly, the department's determination is UPHELD.

It is SO ORDERED.

/s/ _____
[Redacted Signature]

Date Signed: [Redacted] _____

Date Mailed: [Redacted] _____

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.

[Redacted]

[Redacted]

[Redacted]