

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2011-43728

Issue No: 3008

[REDACTED]

Berrien County DHS

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the DHS client's (also referred to as "Claimant") request for a hearing received on July 13, 2011. After due notice, a telephone hearing was held on August 17, 2011. Claimant personally appeared and provided testimony.

ISSUE

Did the department properly close Claimant's Food Assistance Program (FAP) benefits for failure to timely 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. Claimant was receiving FAP at all times pertinent to this hearing. (Hearing Summary).
2. On May 2, 2011, the department mailed Claimant a Semi-Annual Contact Report (DHS-1046) form requesting an update in Claimant's address, household size and income information. (Department Exhibit 1).
3. The DHS-1046 indicated that the deadline to provide the form was June 1, 2011 or her FAP would close effective June 30, 2011. (Department Exhibit 1).
4. Claimant failed to send the DHS-1046 by the June 1, 2011 deadline.
5. On June 10, 2011, the department mailed the claimant a Notice of Potential Food Assistance (FAP) Closure (DHS-1046-A), informing her

that the department can not issue FAP benefits the next month because she failed to turn in the Semi-Annual Contact Form. (Department Exhibit 2).

6. On July 13, 2011, Claimant submitted a hearing request. (Request for a Hearing).

CONCLUSIONS OF LAW

The client has the right to request a hearing for any action, failure to act or undue delay by the department. BAM 105. The department provides an administrative hearing to review the decision and determine its appropriateness. BAM 600.

The regulations that govern the hearing and appeal process for applicants and recipients of public assistance in Michigan are contained in the Michigan Administrative Code (Mich Admin Code) Rules 400.901 through 400.951. An opportunity for a hearing shall be granted to a recipient who is aggrieved by an agency action resulting in suspension, reduction, discontinuance, or termination of assistance. Mich Admin Code 400.903(1).

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. The department's policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

The Department must periodically redetermine an individual's eligibility for active types of assistance (TOA). BAM 210. The redetermination process includes thorough review of all eligibility factors. Redetermination, semi-annual and mid-certification forms are often used to redetermine eligibility of active TOA. BAM 210. Benefits stop at the end of the benefit period unless a redetermination is completed and a new benefit period is certified. If the client does not complete the redetermination process, allow the benefit period to expire. BAM 210.

Verification is usually required upon application or redetermination and for a reported change affecting eligibility or benefit level. BAM 130. Clients must take actions within their ability to obtain verifications and DHS staff must assist when necessary. BAM 105. Specifically, the local office must assist clients who ask for help in completing forms or gathering verifications. BAM 105 and BAM 130. The department must allow a client 10 calendar days (or other time limit specified in policy) to provide the requested verification. BAM 130. Should the client indicate a refusal to provide a verification or, conversely, if the time period given has elapsed and the client has not made a reasonable effort to provide it, the department may send the client a negative action notice. BAM 130.

Verifications are considered timely if received by the date they are due. BAM 130. For FAP only, if the client contacts the department prior to the due date requesting an extension or assistance in obtaining verifications, you must assist them with the verifications but do not grant an extension. BAM 130.

The Department's computer system, referred to as "Bridges" sends a DHS-2240-A, Mid-Certification Contact Notice, for groups assigned a 24-month benefit period during the eleventh month of their benefit period and a DHS-1046, Semi-Annual Contact Report, the beginning of the fifth month for cases assigned a 12-month benefit period. BAM 210.

The DHS-1046 and DHS-2240A may be completed by the client, the client's authorized filing representative or by the specialist (during a telephone call, home call or interview with the client). However, the form must be signed by the client or authorized filing representative. BAM 210.

A report is considered complete when all of the sections (including the signature section) on the DHS-1046 and the DHS 2240-A are answered completely and required verifications are returned by the client or client's authorized representative. BAM 210. A redetermination/review packet is considered complete when all of the sections of the redetermination form including the signature section are completed. BAM 210.

The semi-annual contact report must be recorded, data collection updated and EDBC results certified in Bridges by the last day of the sixth month of the benefit period to effect benefits no later than the seventh month. BAM 210. The contact is met by receipt of a completed DHS-1046 and required verifications. BAM 210.

In the instant case, Claimant is disputing the department's termination of her FAP benefits for failure to provide the Semi-Annual Contact Form (DHS-1046). The department sent Claimant the DHS-1046 on May 2, 2011. The completed DHS-1046 forms were due to the department no later than June 1, 2011. Claimant testified that she did not get the DHS-1046 forms. The issue concerns the proper application of the mailbox rule.

In Michigan, it has long been established that "a letter mailed in the due course of business is received." *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976). Such evidence is admissible without further evidence from the records custodian that a particular letter was actually mailed. *Good supra* at 275. "Moreover, the fact that a letter was mailed with a return address but was not returned lends strength to the presumption that the letter was received." *Id* at 276. The challenging party may rebut the presumption that the letter was received by presenting evidence to the contrary. See *id*.

The department has produced sufficient evidence of its business custom with respect to addressing and mailing, the mere execution of the letter in the usual course of business rebuttably presumes subsequent receipt by the addressee. *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976). The department has produced sufficient evidence of its business custom with respect to the mailing of notices, allowing it to rely on this presumption. Moreover, Claimant has not come forward with sufficient evidence to rebut the presumption.

Therefore, this Administrative Law Judge finds, based on the material and substantial evidence presented during the hearing, that the department properly closed Claimant's FAP benefits for failure to return the Semi-Annual Contact Form (DHS-1046).

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly closed Claimant's FAP benefits for failure to return the Semi-Annual Contact Form (DHS-1046).

Accordingly, the department's action is AFFIRMED.

It is SO ORDERED.

/s/ _____
C. Adam Purnell
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 8/29/11

Date Mailed: 8/29/11

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.

CAP/ds

