

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

IN THE MATTER OF:

[REDACTED]

Reg. No. 2012 13221
Issue No. 2006, 3008
Case No. [REDACTED]
Hearing Date: December 19, 2011
Oakland County DHS (02)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing. After due notice, a telephone hearing was held on December 19, 2011. The Claimant appeared and testified. [REDACTED], ES, also appeared on behalf of the Department of Human Services. [REDACTED] e, Assistant Prosecuting Attorney for Oakland County appeared as a witness for the Department.

ISSUE

Whether the Department properly removed the Claimant from her FAP group and closed her Medical Assistance due to non cooperation with child support.

FINDINGS OF FACT

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

1. The Claimant was an ongoing recipient of FAP benefits and Medical Assistance.
2. The Department reduced the Claimant's FAP benefits on 12/1/11 and removed the Claimant from her FAP group for failing to cooperate in establishing paternity or securing child support.
3. The Claimant was sent two Notice of Appointments, which were mailed by the Oakland County Prosecutor's Office and addressed to the Claimant's correct address. Exhibits 2 and 3.
4. The Claimant requested a hearing on 11/15/11 protesting the reduction of her FAP benefits the closure of her Medical Assistance due to non cooperation.

CONCLUSIONS OF LAW

☒ 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 (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and 1999 AC, Rule 400.3001 through Rule 400.3015.


☒ The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

In the record presented, there was no question that the Claimant was sent two letters properly addressed to her current address by the Oakland County Prosecutors Office requesting that she appear for an interview to assist the prosecutor's office in pursuing child support on behalf of the Claimant's children. Although the Claimant testified that she did not receive the letters, the Claimant made no indication that she otherwise had trouble receiving her mail and did receive the final letter advising her that her case was to close due to non cooperation.

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 Department has established by clear and convincing evidence that it advised the Claimant on two occasions that she was required to report for an interview. The evidence clearly established that the Claimant received the letters, as they were properly addressed to her. Under these circumstances the letters are presumed received. Accordingly, it is determined that the Department did meet its burden of proof and properly reduced the Claimant's Food Assistance and closed the Claimant's Medical Assistance due to non cooperation. BEM 255.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law it is found that the Department properly closed the Claimant's Medical Assistance case and properly removed the Claimant from her FAP group for non cooperation with child support. The Department's actions on are AFFIRMED.


Lynn M. Ferris
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: 12/22/11

Date Mailed: 12/22/11

NOTICE: Michigan Administrative Hearing System (MAHS) 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. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request. (60 days for FAP cases).

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.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail to:
Michigan Administrative hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

LMF/hw

cc: 

201154812/LMF

