

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-20007
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: February 20, 2013
County: Bay

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, an in-person hearing was held on February 20, 2013, at the Bay County DHS office. Claimant personally appeared and testified. Participants on behalf of the Department of Human Services (Department) included Eligibility Specialist [REDACTED] [REDACTED]

ISSUE

Due to a failure to comply with the Semi-Annual Contact Report verification requirements, did the Department properly close Claimant's Food Assistance Program (FAP) case?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, including testimony of witnesses, finds as material fact:

1. Claimant was receiving FAP at all times pertinent to this hearing.
2. On October 1, 2012, Claimant was mailed a Semi-Annual Contact Report.
3. Claimant was required to submit the requested Semi-Annual Contact Report by November 1, 2012.
4. On November 10, 2012, the Department mailed Claimant a Notice of Potential Food Assistance (FAP) Closure, informing Claimant that effective 11/30/2012 her FAP case will be closed for her failure to return the Semi-Annual Contact Report form.
5. On November 30, 2012, the Department closed Claimant's FAP case.

6. On January 2, 2013, Claimant filed a hearing request, protesting the FAP closure.

CONCLUSIONS OF LAW

Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

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 1997 AACSR 400.3001-3015

The FAP redetermination must be completed by the end of the current benefit period so that the client can receive uninterrupted benefits by the normal issuance date. BAM 210, p 14 (11/1/12). The group loses their right to uninterrupted FAP benefits if they fail to do any of the following:

- File the FAP redetermination by the timely filing date.
- Participate in the scheduled interview.
- Submit verifications timely, provided the requested submittal date is after the timely filing date. BAM 210, p 14 (11/1/12).

In this case, Claimant testified that she never received the Semi-Annual Contact Report which was due back to the department on 11/1/2012. Claimant did state that she received the Notice of Potential Food Assistance (FAP) Closure dated 11/10/2012, but not until 11/12/2012, at which time she called her case worker. Claimant stated that she had been in contact with her case worker regarding a State Emergency Relief (SER) application during this time frame and had recently submitted pay stubs and was still at the same address. During these conversations, Claimant stated that her case worker never indicated to her that she had not returned the Semi-Annual Contact form. Claimant then submitted telephone records to support that she had spoken with her case worker.

A review of the telephone records showed the calls were from 10/29/2012 through 11/9/2012. When this was pointed out to Claimant, she stated that she had called her case worker on 11/9/2012 about the FAP closure and her case worker never told her she had to return the Semi-Annual Contact form. When Claimant was reminded that she testified earlier that she had not received the Notice of Potential Closure until 11/12/2012, Claimant said she had made a mistake and it was 11/9/2012. Claimant was then shown the Notice of Potential Food Assistance (FAP) Closure form which was dated 11/10/2012, the date it was mailed out. Claimant then testified that she had been confused and remembered she had received the form late on 11/12/2012 and called her case worker the following day.

The department did not have any information in Claimant's file indicating that the Semi-Annual Contact Report 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 of the Semi-Annual Contact Report as the department mailed all correspondence to Claimant's address of record. Furthermore, she testified that she did receive the Notice of Potential Closure that was also mailed to her address of record.

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, this Administrative Law Judge concludes that the Department properly closed Claimant's case for failure to timely return the Semi-Annual Contact Report.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department did act properly.

Accordingly, the Department's decision is **AFFIRMED**.

/s/ _____
Vicki L. Armstrong
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: February 21, 2013

Date Mailed: February 21, 2013

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.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing 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 at
Michigan Administrative Hearings
Recons ideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

VLA/las

cc:

