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

IN THE MATTER OF:



Reg. No:	2013-33027
Issue No:	2006, 3008
Case No:	
Hearing Date:	May 7, 2013
Oakland-02 Cou	nty DHS

ADMINISTRATIVE LAW JUDGE: Corey A. Arendt

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claim ant's request for a hearing. After due notice, a telephone hearing was held on May 7, 2013, from Lansing, Mich igan. Participants on behalf of Claimant included Participants on behalf of Department of Human Services (Department) included Participants on behalf of Department of Human Services (Department) included Participants on Behalf of Department of Human Services (Department) included Participants on Behalf of Department of Human Services (Department) included Participants on Behalf of Department of Human Services (Department) included Participants on Behalf of Department of Human Services (Department) included Participants on Behalf of Department of Human Services (Department) included Participants on Behalf of Department of Human Services (Department) included Participants on Behalf of Department of Human Services (Department) included Participants on Behalf of Department of Human Services (Department) included Participants on Behalf of Department of Human Services (Department) included Participants on Behalf of Department of Human Services (Department) included Participants on Behalf of Department of Human Services (Department) included Participants on Behalf of Department of Human Services (Department) included Participants on Behalf of Department of Human Services (Department) included Participants on Behalf of Department of Human Services (Department) included Participants on Behalf of Department of Human Services (Department) included Participants on Behalf of Department of Human Services (Department) included Participants on Behalf of Department of Human Services (Department) included Participants on Behalf of Department of Human Services (Department) included Participants on Behalf of Department of Human Services (Department) included Participants on Behalf of Department of Human Services (Department) included Participants on Behalf of Department of Human Services (Department) include

ISSUE

Due to a failure to comply with the ve rification requirements, did the Department properly \Box deny Claimant's application \boxtimes close Claimant's case \Box reduce Claimant's benefits for:

imes	

Family Independence Program (FIP)? Food Assistance Program (FAP)?

Medical Assistance (MA)?

State Disability Assistance (SDA)?
Child Development and Care (CDC)?

FINDINGS OF FACT

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

- 1. As of October 05, 2012, the Claimant was receiving FAP and MA benefits.
- 2. On October 5, 2012, the Department sent the Claimant a verification checklist. The verification checklist requested inferror ormation regarding vehicle ownership. The verifications were due by October 15, 2012.
- 3. As of October 30, 2012, the Cla imant had not yet returned to the Department proof of vehicle ownership.

- 4. On October 30, 2012, the Department sent the Claimant a notice of case action. The notice indicated the Claimants FAP and MA benefits were closing December 1, 2012 for failure verify or allow the Department to verify necessary information (vehicle ownership).
- 5. On January 31, 2013, the Claimant requested a hearing to dispute the FAP and MA closures.

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 FAP [formerly known as the Food Stamp (F S) program] is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in T itle 7 of t he Code of Federal Regulations (CF R). The Department (formerly known as the Fa mily Independence Agenc y) admin isters FAP pursuant to MCL 400.10, *et seq.*, and 1999 AC, R 400.3001 through Rule 400.3015.

The MA program is established by the Titl e XIX of the Social Security Act and is implemented by T itle 42 of t he Code of F ederal Regulations (CFR). The Department (formerly known as the Fa mily Independence Agenc y) admin isters the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

Clients have the right to contest a Departm ent decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The Department will provide an administrative hearing to rev iew the decision and determine the appropriateness of that decision. (BAM 600).

Department policy indicates the at clients must cooperate with the loca I office in determining initial and ongoing eligibility with all programs. (BAM 105). This includes completion of the necessary forms. Clie nts who are able to but refuse to provide necessary information or take a required action are subject to penalties. (BAM 105).

In this case, the Department sent the verifi cations to the Claimant's last known addres s on record.

Because the Claimant alleges to have not received the notices, this issue concerns the application of "the mailbox rule."

Under the mailbox rule "a letter mailed in the due course of business is received."¹ Such evidence is admissible without further evi dence from the records custodian that a particular letter was actually mailed.² "Moreover, the fact that a letter was mailed with a return address but was not re-turned lends strength to the presumption that the letter

¹ Good v Detroit Automobile Inter-Insurance Exchange, 67 Mich App 270 (1976).

² Good supra at 275.

was received."³ The challenging party may rebut t he presumption that the letter was received by presenting evidence to the contrary.⁴

The Department has produced sufficient evidence of its business custom with respect to addressing and mailing of the no tices in question. Under the mailbox rule, the mere execution of the DHS forms in the usual course of business rebuttably presumes subsequent receipt by the addressee. ⁵ The Department has produced sufficient evidence of its business custom with respect to the mailing of the DHS notice s allowing it to rely on this presumption. The Cla imant, on the other hand, has not come forward with sufficient evidence to rebut the presumption.

Therefore, based on material, competen t and substantial evidenc e, I find the Department properly closed the Claimant's FAP and MA cases as the Claimant failed to return the requested verifications in a timely manner.

DECISION AND ORDER

I find based upon the above F indings of Fact and Conclusions of Law, and for the reasons stated on the record, the Department did act properly.

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

Corey A. Arendt Administrative Law Judge For Maura Corrigan, Director Department of Human Services

Date Signed: May 8, 2013

Date Mailed: May 8, 2013

NOTICE: Michigan Administrative Hearing Syst em (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the receipt date of this Dec ision and Order. MAHS will not or der a rehearing or reconsideration on the Department's mo tion where the final decis ion cannot be implemented within 90 days of the filing of the original request. (60 days for FAP cases)

³ *Id* at 276.

⁴ See id.

⁵ Good v Detroit Automobile Inter-Insurance Exchange, 67 Mich App 270 (1976).

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

CAA/las

CC:

