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

IN THE MATTER OF:



ADMINISTRATIVE LAW JUDGE: Kevin Scully

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 on behalf of Claimant included participants on behalf of Department of Human Services (Department) included and

<u>ISSUE</u>

Whether the Department of Human Serv ices (Department) properly det ermined the Claimant's Food Assistance Program (FAP) eligibility?

FINDINGS OF FACT

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

- The Claimant was an ongoing Food Assistance Program (FAP) recipient.
- 2. On the Department sent the Claimant a Verification Checklist with a due date of telephone interview to take place on
- 3. On Company of the Department notified the Claimant that it would close her Food Assistance Program (FAP) benefits.
- 4. The Department received the Cla imant's request for a hearing on protesting the closure of her F ood Assistance Program (FAP) benefits.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) (formerly known as the Food Stamp 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), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

Clients must cooperate with the local office in determin ing initial and ongoing eligibility. This includes the completion of necessary forms. BAM 105. Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. BAM 130. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level when it is required by policy, required as a local office option, or information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. BAM 130. The Department uses documents, collateral contacts, or home calls to verify information. BAM 130. A collateral contact is a direct contact with a person, organization, or agency to verify information from the client. BAM 130. When documentation is not available, or clarification is needed, collateral contact may be necessary. BAM 130.

In this case, the Claimant was an ongoing Food Assistance Program (FAP) recipient.

On the Department sent the Claimant a Verification Checklist with a due date of the Department, and included not ice of a telephone interview to take place on the Department notified the Claimant that it would close her Food Assistance Program (FAP) benefits.

The proper mailing an d addressing of a letter cr eates a presumption of receipt. That presumption may be rebutted by evidenc e. Stacey v Sankovic h, 19 Mi ch A pp 638 (1969); Good v Detroit Automobile Inter-Insurance Exchange, 67 Mich App 270 (1976). In this case, the Claimant failed to rebut the presumption of receipt.

The Department's representative testified that the Claimant failed to comply with the Verification Checklist or make herself available for an interview to determine her eligibility for Food Assistance Program (FAP) benefits.

Based on the evidence and testimony avail able during the hearing, the Claimant failed to establish that she made a reasonable attempt to provide the Department with the information necessary to determine her continued eligibility to receive Food Assistanc e Program (FAP) benefits.

At the _____ hearin g, the Claimant testifi ed t hat she was protesting the Department's denial of Medi cal Assistanc e (MA) and State Emergency Relief (SER) benefits as well as the closure of her Food Assistance Program (FAP) benefits.

The Depar tment's denial of State Emergen cy Relief (SER) benefits and closure of Medical Assistance (MA) benefit s was upheld in a previous administrative hearing singed on (REG# 201277092) Claimants may appeal decisions and orders issued by the Michigan Administ rative Hearing System (MAHS) by requesting a rehearing or recons ideration within 90 days, or may appeal to the Circuit Court within 30 days. This Administrative Law Judge does not have the authority to hearing or decide the Claiman t's grievance concer ning these benefits because a decision has already been issued.

Based on the evidence and testimony available during the hearing, the Department has established that it properly clos ed the Claimant's F ood Ass istance Program (FAP) benefits for failure to provide information necessary to determine her eligibility to receive benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusion sof law, decides that the Department closhed the Claimant's Food Assistance Program (FAP) benefits in accordance with policy for failure to provide information necessary to determine her eligibility to receive benefits.

The Department's Food Ass istance Progra m (FAP) eligibility determination is **AFFIRMED**. It is **SO ORDERED**.

_/s/		
	Kevin	Scully
		Administrative Law Judge
		for Maura D. Corrigan, Director
		Department of Human Services

Date Signed: <u>03/22/2013</u>

Date Mailed: 03/22/2013

<u>NOTICE</u>: Michigan Administrative Hearing System (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a par ty within 30 days of the mailing date of this Dec ision and Order. MAHS will not order 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)

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 ti mely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

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

- A rehearing MAY be granted if there is newly disc overed 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 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

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cc: