

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

IN THE MATTER OF:

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██████████████████████████████

Reg. No.: 2013-51067
Issue No.: 3008
Case No.: ██████████
Hearing Date: July 1, 2013
County: Wayne (19)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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, a telephone hearing was held on July 1, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████ Eligibility Specialist.

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP) benefits effective June 1, 2013, ongoing?

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 an ongoing recipient of FAP benefits.
2. On April 29, 2013, the Department sent Claimant a New Hire Client Notice with a due date of May 9, 2013. Exhibit 1.
3. The Department received the requested documents on June 13, 2013.
4. On May 14, 2013, the Department sent Claimant a Notice of Case Action notifying him that his FAP benefits were closed effective June 1, 2013, ongoing, due to Claimant's failure to comply with the verification requirements. Exhibit 1.

5. On May 24, 2013, Claimant filed a hearing request, protesting his FAP closure. Exhibit 1.
6. On June 13, 2013, Claimant attempted to submit a Hearing Request Withdrawal. Exhibit 1.
7. On June 20, 2013, the Administrative Law Judge ordered that the request for withdrawal is denied and Claimant's hearing will be scheduled. Exhibit 1.
8. On July 1, 2013, Claimant's hearing proceeded as scheduled. Exhibit 1.

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 Mich Admin Rule 400.3001 through Rule 400.3015.

The Michigan Department of Human Services (DHS) routinely matches recipient data with other agencies through automated computer data exchanges. BAM 807 (April 2012), p. 1. New Hires is a daily data exchange with Michigan Department of Treasury. BAM 807, p. 1. New Hires information is used to determine current income sources for active DHS clients. BAM 807, p. 1. The standard of promptness for resolving information obtained from a New Hires report is 21 calendar days from the date the match is reported to the specialist. BAM 807, p. 1.

The Department contacts the client immediately if the employment has not been previously reported. BAM 807, p. 1. The Department requests verification by generating a DHS-4635, New Hire Notice, from its system. BAM 807, p. 1. When a DHS-4635 is requested, the Department automatically gives the client 10 calendar days to provide verification from the date the forms were requested. BAM 807, p. 1. If verifications are not returned by the 10th day, the case will close for a minimum of 30 days after appropriate actions are taken by the Department, unless client returns verifications. BAM 807, p. 1. The date the client reapplies determines if the new hire verifications must be returned before processing the new application. BAM 807, p. 1.

Additionally, clients must cooperate with the local office in completing the necessary forms for determining initial and ongoing eligibility. BAM 105 (March 2013), p. 5. For FAP cases, allow the client 10 calendar days to provide the verification you request. BAM 130 (May 2012), p. 5. Also for FAP cases, if the client indicates refusal to provide a verification or the time period given has elapsed and the client has not made a

reasonable effort to provide it, then policy directs that a negative action be issued. BAM 130, p. 5.

In this case, Claimant was an ongoing recipient of FAP benefits. On an unspecified date, the Department obtained information from the Department of Treasury indicating that Claimant had recently began work. Thus, on April 29, 2013, the Department sent Claimant a New Hire Client Notice with a due date of May 9, 2013. Exhibit 1. The Department received the requested documents on June 13, 2013. The Department testified that it received the pay stubs regarding the requested employer from the Claimant. However, the Department received the pay stubs not until after the due date. On May 14, 2013, the Department sent Claimant a Notice of Case Action notifying him that his FAP benefits were closed effective June 1, 2013, ongoing, due to Claimant's failure to comply with the verification requirements. Exhibit 1.

At the hearing, Claimant testified that he only worked for the employer for a few days. Additionally, Claimant testified that he first learned about the request documentation when he received his Notice of Case Action dated May 14, 2013.

Also, Claimant contended that he did not receive the New Hire Client Notice in the mail. The proper mailing and addressing of a letter creates a presumption of receipt which 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 testified that he does not have issues with receiving DHS mail or any other mail at his residence. Claimant testified that he does have an alternate address. However, the New Hire Client Notice was addressed to his residence and not his alternate address. See Exhibit 1. Claimant did not present any documentary evidence regarding any mailing issues at his address. It is found that Claimant failed to rebut the presumption of proper mailing.

Based on the foregoing information and evidence, the Department properly closed Claimant's FAP benefits. The Department properly sent Claimant the New Hire Client Notice to the Claimant. Claimant eventually submitted the documents, however, the Department did not receive it until after the May 9, 2013 due date. Additionally, Claimant failed to rebut the presumption of proper mailing. Thus, the Department properly closed Claimant's FAP benefits effective June 1, 2013, ongoing, in accordance with Department policy due to Claimant's failure to comply with the verification requirements. BAM 807, p. 1; BAM 105, p. 5; and BAM 130, p. 5.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department did act properly when it closed Claimant's FAP benefits effective June 1, 2013, ongoing.

Accordingly, the Department's AMP FIP FAP MA SDA CDC decision is AFFIRMED REVERSED for the reasons stated on the record.



Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: July 9, 2013

Date Mailed: July 9, 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. (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 affect the substantial rights of the claimant,
 - 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
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

EJF/cl

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