

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201356000
Issue No.: 3003
Case No.: [REDACTED]
Hearing Date: August 13, 2013
County: Kent County 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 Claimant's request for a hearing. After due notice, a telephone hearing was held on August 13, 2013 from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] Participants on behalf of Department of Human Services (Department) included [REDACTED]

ISSUE

Did the Department properly determine the Claimant's Food Assistance Program (FAP) allotment beginning June 17, 2013?

FINDINGS OF FACT

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

1. As of June 17, 2013, the Claimant was receiving FAP benefits.
2. On June 17, 2013, the Claimant requested a hearing to dispute the amount of her FAP benefits.

CONCLUSIONS OF LAW

Department policies are contained 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 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, R 400.3001 through Rule 400.3015.

The Claimant requested a hearing regarding the amount of her FAP allotment. There was no evidence presented by the Claimant of any other hearing requests. Therefore, the issue to be addressed is the issue that was raised in the request filed on June 17, 2013.

Additionally, the Claimant requested a second adjournment as she was just released from the hospital and could not procure the witnesses she needed for the hearing. The Claimant however was unable to show any documentation to substantiate her claims of inpatient care covering July 24, 2013 through August 13, 2013. Therefore, the adjournment request was denied.

In regards to Department's exhibit A, the Claimant alleged she couldn't review the documentation as she did not have her glasses. The Department indicated they had mailed the exhibit to the Claimant at the Claimant's last known address on July 2, 2013. The Department indicated they sent the mailing in the ordinary course of business and had not received it back as undeliverable.

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

Under the mailbox rule "a letter mailed in the due course of business is received." *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976). Such evidence is admissible without further evidence from the records custodian that a particular letter was actually mailed. *Good supra* at 275. "Moreover, the fact that a letter was mailed with a return address but was not returned lends strength to the presumption that the letter was received." *Id* at 276. The challenging party may rebut the presumption that the letter was received by presenting evidence to the contrary. See *id.*

The Department has produced sufficient evidence of its business custom with respect to addressing and mailing of the notices 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. *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976). The Department has produced sufficient evidence of its business custom with respect to the mailing of the DHS notices allowing it to rely on this presumption. Claimant, on the other hand, argues that she did not receive some or all of the notices. Despite making this argument, Claimant has not come forward with sufficient evidence to rebut the presumption.

Therefore, I find the Claimant had an ample opportunity to review the exhibits prior to the hearing and therefore the objection that she lacked an opportunity is mute.

Therefore after an extensive review of the Claimant's budget I have determined all calculations were properly made at review, and all FAP issuance/budgeting rules were properly applied.

DECISION AND ORDER

I find, based upon the above Findings of Fact and Conclusions of Law that the Department did act properly.

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



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

Date Signed: August 13, 2013

Date Mailed: August 14, 2013

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

CAA/las

cc:

