

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

IN THE MATTER OF:

████████████████████
████████████████████
████████████████████

Reg. No.: 2013 69256
Issue No.: 3008
Case No.: ██████████
Hearing Date: October 17, 2013
County: Wayne (55)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on October 17, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████, Assistance Payments Worker.

ISSUE

Due to a failure to comply with the verification requirements, did the Department properly deny Claimant's application close Claimant's case reduce Claimant's benefits for:

- | | |
|--|---|
| <input type="checkbox"/> Family Independence Program (FIP)? | <input type="checkbox"/> Adult Medical Program (AMP)? |
| <input checked="" type="checkbox"/> Food Assistance Program (FAP)? | <input type="checkbox"/> State Disability Assistance (SDA)? |
| <input type="checkbox"/> Medical Assistance (MA)? | <input type="checkbox"/> Child Development and Care (CDC)? |

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 applied for received:
 FIP FAP MA AMP SDA CDC
benefits.
2. Claimant was required to submit requested verification by August 29, 2013.
Exhibit 1

3. On September 1, 2013, the Department
 - denied Claimant's application.
 - closed Claimant's case.
 - reduced Claimant's benefits.
4. On September 3, 2013, the Department sent Claimant/Claimant's Authorized Representative (AR) notice of its action.
5. On September 12, 2013, Claimant/Claimant's Authorized Hearing Representative (AHR) filed a hearing request, protesting the Department's action.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), and Department of Human Services Reference Tables Manual (RFT).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015.

Additionally, in this case the issue was whether or not the Claimant provided timely verification of her bank account information so that an asset determination could be made by the Department as part of the redetermination process. The Claimant credibly testified that on August 22, 2013 after speaking with the Department on August 19, 2013 the Claimant sent a letter and a copy of her [REDACTED] account statement which indicated that the account had closed in January 2013. The Claimant further testified credibly that the information was deposited in the mailbox located in her apartment complex where she has lived for 20 years, that she has never had difficulty with mail sent from that location, and that she used the self-addressed prepaid postage envelope provided by the Department with the verification paperwork. In this case it is determined based on the Claimant's credible testimony that she did properly address and mail the information in a timely manner. For whatever reason, the Department did not receive the information and indicated that perhaps it was lost in processing as happens from time to time.

Michigan law provides: 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). Thus, under the facts presented and the evidence admitted in this case it is determined that the Claimant properly addressed and mailed the envelope and therefore it is presumed to be received and no further evidence

rebutting that presumption was presented by the Department; therefore, as a matter of law, it is determined that the verification was received.

Based upon the foregoing, it is determined that the Claimant properly returned in a timely manner the verification and, therefore, the Department should not have closed the Claimant's food assistance case. BAM 130.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any finds that the Department

did not act in accordance with Department policy when it Close Claimant's food assistance case for failure to verify bank account information.

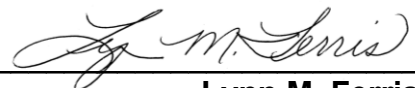
DECISION AND ORDER

Accordingly, the Department's decision is

REVERSED.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. The Department is ordered to initiate reinstatement of the Claimant's food assistance case retroactive to September 1, 2013 and determine Claimant's eligibility for food assistance based on the asset verification provided, as well as the income provided by the Claimant at the time of the redetermination. The Department shall make said determination on the basis of two members in the food assistance group.
2. If the Department finds that the Claimant is eligible for food assistance, the Department shall issue a supplement to the Claimant for food assistance Claimant was otherwise entitled to receive in accordance with Department policy



Lynn M. Ferris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: October 24, 2013

Date Mailed: October 24, 2013

NOTICE OF APPEAL: 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.

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).

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

LMF/cl

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]