

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014103
Issue No.: [REDACTED]
Case No.: [REDACTED]
Hearing Date: October 29, 2013
County: SSPC West

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

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 29, 2013, from Lansing, Michigan. Participants on behalf of Claimant included himself. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUE

Did the Department of Human Services properly deny Claimant's July 17, 2013 Food Assistance Program (FAP) application because he failed to provide required verifications?

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. On July 17, 2013, Claimant applied for Food Assistance Program (FAP) benefits.
2. On July 26, 2013, Claimant was approved for expedited Food Assistance Program (FAP) benefits for July and August 2013. Claimant was sent a Notice of Case Action (DHS-1605) and a Verification Checklist (DHS-3503) requesting verification of information necessary to determine his eligibility. The required verifications were due on August 5, 2013.
3. On or about August 8, 2013, Claimant mailed in the requested verifications.

4. On September 5, 2013, Claimant was sent a Notice of Case Action (DHS-1605) which stated his Food Assistance Program (FAP) benefits ended on September 1, 2013 because he had not submitted the requested verifications.
5. On September 16, 2013, Claimant filed a hearing request. Claimant also submitted copies of the requested verifications.

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.

During this hearing Claimant gave credible testimony that he mailed in the requested verifications on or about August 8, 2013, using the self-addressed, stamped envelopes provided by the Department. AP Perkins testified that when items are received in the mail at a Self Service Processing Center (SSPC) mail room staff scan the items in and attach them to the client's electronic file. AP Perkins also testified that she has only seen Claimant's electronic file.

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).

The Department has not provided any evidence to rebut the presumption. Once the Department received the requested verifications any failure to get them into Claimant's electronic file are the responsibility of the Department. It is not difficult to conceive numerous errors that would explain the absence of the requested verifications from Claimant's electronic file.

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 denied Claimant's July 17, 2013 Food Assistance Program (FAP) application.

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. Reinstate Claimant's Food Assistance Program (FAP) application and complete processing it in accordance with Department policy.

/s/
Gary F. Heisler
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 10/30/2013

Date Mailed: 10/31/2013

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.

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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

GFH/sw

cc:

