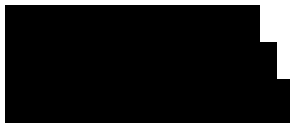


STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 201310923
Issue No: 3008
Case No: 1 [REDACTED]
Hearing Date: January 8, 2013
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Christopher S. Saunders

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon claimant's request for a hearing. After due notice, a telephone hearing was held on January 8, 2013. The claimant personally appeared and provided testimony.

ISSUE

Did the department properly close the claimant's Food Assistance Program (FAP) benefits case for failure to return the requested verifications?

FINDINGS OF FACT

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

1. The claimant was a recipient of FAP benefits.
2. On October 19, 2012, the department sent the claimant a verification checklist (DHS 3503) requesting verification of loss of employment and verification of wages. (Department Exhibit A).
3. The department did not receive the requested verifications by the due date of October 29, 2012.
4. On November 1, 2012, the department sent the claimant a notice of case action (DHS 1605) stating that her FAP benefits would be closing effective November 1, 2012 due to her failure to return the requested verifications. (Department Exhibit B).
5. On November 8, 2012, the claimant filed a request for hearing, protesting the closure of her FAP case.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. MAC R 400.903(1).

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness. BAM 600.

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 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) and the Bridges Reference Manual (BRM).

Claimants are required to comply with the local office to allow the department to determine initial or ongoing eligibility. BAM 105. The department informs the client what verification is required, how to obtain it, and the due date by using the Verification Checklist form (DHS-3503). BAM 130. Clients are provided ten days to return the verifications, but can request an extension of time to provide the verifications. BAM 130. If the time period to provide the verifications elapses and the verifications have not been provided, the department is directed to send a negative action notice. BAM 130.

Department policy states as follows:

Verifications

All Programs

Clients must take actions within their ability to obtain verifications. DHS staff must assist when necessary. See BAM 130 and BEM 702. BAM 105.

Assisting the Client

All Programs

The local office must assist clients who ask for help in completing forms (including the DCH-0733-D) or gathering verifications. Particular sensitivity must be shown to clients

who are illiterate, disabled or **not** fluent in English. BAM 105.

Verification is usually required at application/redetermination **and** for a reported change affecting eligibility or benefit level. BAM 130.

Obtaining Verification

All Programs

Tell the client what verification is required, how to obtain it, and the due date (see “**Timeliness Standards**” in this item). Use the DHS-3503, Verification Checklist, or for MA redeterminations, the DHS-1175, MA Determination Notice, to request verification. BAM 130.

The client must obtain required verification, but you must assist if they need and request help.

If neither the client nor you can obtain verification despite a reasonable effort, use the best available information. If **no** evidence is available, use your best judgment. BAM 130.

Timeliness Standards

FIP, SDA, CDC, FAP

Allow the client 10 calendar days (**or** other time limit specified in policy) to provide the verification you request. BAM 130.

Exception: For CDC only, if the client cannot provide the verification despite a reasonable effort, extend the time limit at least once.

Verifications are considered to be timely if received by the date they are due. For electronically transmitted verifications (fax, email), the date of the transmission is the receipt date. Verifications that are submitted after the close of business hours through the drop box or by delivery of a DHS representative are considered to be received the next business day.

Send a negative action notice when:

- . 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. BAM 130.

Note: For FAP only, if the client contacts the department prior to the due date requesting an extension or assistance in obtaining verifications, you must assist them with the verifications but do not grant an extension. Explain to the client they will not be given an extension and their case will be denied once the VCL due date is passed. Also, explain their eligibility will be determined based on their compliance date if they return required verifications. Re-register the application if the client complies within 60 days of the application date; see BAM 115, Subsequent Processing. BAM 130.

In this case, the department requested verification from the claimant regarding her loss of employment and verification of her wages. At the hearing, the claimant provided credible testimony that she mailed the requested verifications to the department. Michigan follows the common law presumption that a letter mailed is presumed received by the addressee. 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). Therefore, as this Administrative Law Judge finds that the claimant did in fact mail the requested verifications to the department, the presumption is that said verifications were received. This Administrative Law Judge finds that the claimant did cooperate with the verification request of the department. Accordingly, her case was improperly closed for failure to cooperate with the verification request.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department improperly closed the claimant's case for FAP benefits.

Accordingly, the department's actions are **REVERSED**.

It is HEREBY ORDERED that the department shall initiate a redetermination of the claimant's eligibilty for FAP benefits as of the date of negative action (November 1, 2012). The department shall allow the claimant the opportunity to submit any additional verifications that may be required to determine her eligibility. Said verifications shall be submitted in accordance with policy. If it is found that the claimant is otherwise eliglbe, the department shall reinstate benefits in accordnace with policy and, if applicable, issue any past due benefits that may be due and owing.

/s/_____

Christopher S. Saunders
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: January 17, 2013

Date Mailed: January 17, 2013


NOTICE: Administrative Hearings 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. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 60 days of the filing of the original request.

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.

CSS/cr

cc:


Wayne County DHS #76


C. S. Saunders
MAHS