

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2013-33027
Issue No: 2006, 3008
Case No: [REDACTED]
Hearing Date: May 7, 2013
Oakland-02 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 May 7, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of Department of Human Services (Department) included [REDACTED].

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

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. As of October 05, 2012, the Claimant was receiving FAP and MA benefits.
2. On October 5, 2012, the Department sent the Claimant a verification checklist. The verification checklist requested information regarding vehicle ownership. The verifications were due by October 15, 2012.
3. As of October 30, 2012, the Claimant had not yet returned to the Department proof of vehicle ownership.

4. On October 30, 2012, the Department sent the Claimant a notice of case action. The notice indicated that the Claimant's FAP and MA benefits were closing December 1, 2012 for failure to verify or allow the Department to verify necessary information (vehicle ownership).
5. On January 31, 2013, the Claimant requested a hearing to dispute the FAP and MA closures.

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 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 MA program is established by the Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

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 of that decision. (BAM 600).

Department policy indicates that clients must cooperate with the local office in determining initial and ongoing eligibility with all programs. (BAM 105). This includes completion of the necessary forms. Clients who are able to but refuse to provide necessary information or take a required action are subject to penalties. (BAM 105).

In this case, the Department sent the verifications to the Claimant's last known address on record.

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

Under the mailbox rule "a letter mailed in the due course of business is received."¹ Such evidence is admissible without further evidence from the records custodian that a particular letter was actually mailed.² "Moreover, the fact that a letter was mailed with a return address but was not returned lends strength to the presumption that the letter

¹ *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976).

² *Good supra* at 275.

was received."³ The challenging party may rebut the presumption that the letter was received by presenting evidence to the contrary.⁴

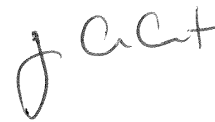
The Department has produced sufficient evidence of its business custom with respect to addressing and mailing of the notices in question. Under the mailbox rule, the mere execution of the DHS forms in the usual course of business rebuttably presumes subsequent receipt by the addressee.⁵ The Department has produced sufficient evidence of its business custom with respect to the mailing of the DHS notices allowing it to rely on this presumption. The Claimant, on the other hand, has not come forward with sufficient evidence to rebut the presumption.

Therefore, based on material, competent and substantial evidence, I find the Department properly closed the Claimant's FAP and MA cases as the Claimant failed to return the requested verifications in a timely manner.

DECISION AND ORDER

I find based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Department did act properly.

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



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

Date Signed: May 8, 2013

Date Mailed: May 8, 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 receipt 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)

³ *Id* at 276.

⁴ See *id*.

⁵ *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976).

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 effect the substantial rights of the claimant:
 - the 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

CAA/las

cc:

