

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201414138
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: January 7, 2014
County: SSPC-WEST

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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 January 7, 2014, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] and [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUE

Whether the Department of Human Services (Department) properly denied the Claimant's Food Assistance Program (FAP) application for failing to participate in an initial eligibility interview?

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 applied for Food Assistance Program (FAP) benefits on October 8, 2013.
2. On October 10, 2013, the Department sent the Claimant written notice of an interview scheduled for October 16, 2013.
3. On October 16, 2013, the Department notified the Claimant that she had failed to participate in or reschedule an initial eligibility interview by October 16, 2013.
4. On November 7, 2013, the Department notified the Claimant that it had denied her application for Food Assistance Program (FAP) benefits.
5. The Department received the Claimant's request for a hearing on November 18, 2013, protesting the denial of Food Assistance Program (FAP) benefits.

CONCLUSIONS OF LAW

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.

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes the completion of necessary forms. Department of Human Services Bridges Assistance Manual (BAM) 105 (March 1, 2013), p 5. Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. Department of Human Services Bridges Assistance Manual (BAM) 130 (May 1, 2012), p 1. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level when it is required by policy, required as a local office option, or information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. BAM 130. The Department uses documents, collateral contacts, or home calls to verify information. BAM 130. A collateral contact is a direct contact with a person, organization, or agency to verify information from the client. BAM 130. When documentation is not available, or clarification is needed, collateral contact may be necessary. BAM 130.

The Department is required to conduct a telephone interview at application before approving Food Assistance Program (FAP) benefits. The Department will not deny the application if the client has not participated in the initial interview until the 30th day after the application date even if he/she has returned all verifications. Department of Human Services Bridges Administrative Manual (BAM) 130 (January 1, 2014), pp 17-18.

In this case, the Claimant submitted an application for Food Assistance Program (FAP) benefits on October 8, 2013. On October 10, 2013, the Department sent written notice to the Claimant's address of record that an initial eligibility interview had been scheduled for October 16, 2013. On October 16, 2013, the Department sent the Claimant notice that she had missed her interview. This notice included instructions that it was the Claimant's responsibility to reschedule her interview.

On November 7, 2013, the Claimant had not participated in an initial eligibility interview or rescheduled her interview. After 30 days had passed since submitting her application for benefits, the Department then sent the Claimant written notice that her application for Food Assistance Program (FAP) benefits had been denied.

The Claimant testified that she did not receive the written notice of the eligibility interview or the notice that she had missed her interview. It was not disputed that the Claimant received the notice that her application for benefits had been denied.

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). In this case, the Claimant failed to rebut the presumption of receipt.

Based on the evidence and testimony available during the hearing, the Department has established that it sent all of its correspondence to the address the Claimant submitted to the Department on her application for benefits. Therefore, the Claimant is presumed to have received it.

Since the Claimant failed to participate in a required eligibility interview, the Department was acting in accordance with policy when it denied her application for Food Assistance Program (FAP) benefits.

DECISION AND ORDER

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 acted in accordance with Department policy when it denied the Claimant's Food Assistance Program (FAP) application..

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

/s/ _____
Kevin

Scully
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: January 8, 2014

Date Mailed: January 9, 2014

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

KS/hj

cc:

