

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-013627
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: November 19, 2014
County: WAYNE-15 (GREYDALE)

ADMINISTRATIVE LAW JUDGE: Lynn 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, an in person hearing was held on November 19, 2014, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. [REDACTED]

[REDACTED] appeared as the Claimant's Authorized Hearing Representative. Participants on behalf of the Department of Human Services (Department) included [REDACTED] Assistance Payments Supervisor.

ISSUE

Due to a failure to comply with the verification requirements, did the Department properly close Claimant's case for the Food Assistance Program (FAP)?

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 received Food Assistance (FAP) benefits.
2. Claimant was required to submit requested verification by returning his Redetermination by July 1, 2014.
3. On July 31, 2014, the Department closed the Claimant's Food Assistance case for failure to return the Redetermination effective August 1, 2014.
4. On July 31, 2014, the Department sent Claimant/Claimant's Authorized Representative (AR) notice of its action.

5. The Claimant contacted the Department after he received the Notice of missed interview and was told to provide the Department a copy of his identification, which he did. Claimant Exhibit A.
6. The Department received the faxed identification information.
7. On October 7, 2014, 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 273. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001 to .3015.

Additionally, in this case the Claimant credibly testified that he returned the Redetermination prior to the due date, by placing the completed form in the self-addressed envelope provided to him by the Department with the redetermination form. The Claimant specifically recalled placing the envelope in the mailbox and identified the location. 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 further testified to difficulties with a new procedure requiring the scanning of received mail. Based upon the evidence and the record presented, it is determined that the Claimant timely completed the Redetermination and his Food Assistance case should not have been closed. BAM 130. (7/1/14).

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 closed the Claimant's FAP case for failure to complete the Redetermination.

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 shall reinstate the Claimant's FAP case retroactive to the date of closure, July 31, 2014.
2. The Department shall issue a supplement to the Claimant for FAP benefits he is otherwise entitled to receive in accordance with Department policy.



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

Date Signed: **11/20/2014**

Date Mailed: **11/20/2014**

LMF / tm

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, 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

cc:

