

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

IN THE MATTER OF:

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████████████████████

Reg. No.: 2014-10503
Issue No(s) .: 3002
Case No.: ██████████
Hearing Date: December 4, 2013
County: Wayne (57)

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 December 4, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████ ██████████, Eligibility Specialist and ██████████, Family Independence Manager.

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:

- | | |
|--|---|
| ☐ Family Independence Program (FIP)? | ☐ Adult Medical Program (AMP)? |
| ☒ Food Assistance Program (FAP)? | ☐ State Disability Assistance (SDA)? |
| ☐ Medical Assistance (MA)? | ☐ Child Development and Care (CDC)? |

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 ☐ applied for ☒ received:
☐ FIP ☒ FAP ☐ MA ☐ AMP ☐ SDA ☐ CDC
benefits.

2. Claimant was required to submit requested verification by September 16, 2013.
3. On October 1, 2013, the Department
 - ☐ denied Claimant's application.
 - ☒ closed Claimant's case.
 - ☐ reduced Claimant's benefits.
4. On September 19, 2013, the Department sent Claimant/Claimant's Authorized Representative (AR) notice of its action.
5. On October 25, 2013, 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 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.

Additionally, verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (July 2013), p.1. To request verification of information, the Department sends a Verification Checklist (VCL) which tells the client what verification is required, how to obtain it, and the due date. BAM 130, pp. 2-3. FAP clients are given 10 calendar days to provide the verifications requested by the Department. Verifications are considered to be timely if received by the date they are due. BAM 130, pp.5-6. For FAP cases, the Department sends a negative action notice when the client indicates a 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, p. 6.

In this case, on September 5, 2013, the Department testified that it sent Claimant a VCL requesting that she submit verification of the last 30 days of her income through paystubs, earnings statements, or employer statements by September 16, 2013. (Exhibit 2). The Department stated that because Claimant did not submit the requested verifications by the due date and because it did not receive any communication from Claimant regarding her inability to submit the verifications, the Department sent Claimant a Notice of Case Action informing her of the FAP case closure effective October 1, 2013, based on a failure to verify. (Exhibit 1). Subsequent to the closure,

Claimant submitted a new application for FAP benefits and was approved for November 2013. At issue, is a lapse in FAP benefits for October 2013.

At the hearing, Claimant stated that she did not receive the VCL, which is why she did not respond or submit the verifications. 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). Claimant confirmed that the address where the VCL was sent was her correct mailing address. Claimant also stated that she did not report any problems with receiving mail to the Department. Additionally, Claimant did receive the Notice of Case Action informing her of the case closure. Although Claimant did state that she was hospitalized from September 14, 2013 through September 30, 2013, Claimant has not presented sufficient evidence to rebut the presumption that she received the VCL prior to her hospitalization. Claimant testified that during her hospitalization, she instructed one of her cousins to call Claimant's case worker and inquire about the status of her case, which the Department disputed.

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 finds that because the Department did not receive the requested verifications by the due date, the Department acted in accordance with Department policy when it closed Claimant's FAP case based on a failure to verify requested information.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.



Zainab Baydoun
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: December 9, 2013

Date Mailed: December 10, 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.

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

ZB/tm

cc:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]