

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

IN THE MATTER OF:

[REDACTED]

MAHS Reg. No.: 15-020014
Issue No.: 3002
Agency Case No.: [REDACTED]
Hearing Date: December 16, 2015
County: Wayne (19) Inkster

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

HEARING DECISION

Following Petitioner'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; and Mich Admin Code, R 792.11002. After due notice, a hearing was held on December 16, 2015, from Detroit, Michigan. The Petitioner was represented by [REDACTED], Authorized Hearing Representative (AHR). The Petitioner did not appear. The Department of Health and Human Services (Department) was represented by [REDACTED] Hearing Facilitator.

ISSUE

Did the Department properly close the Petitioner's Food Assistance Program (FAP) case?

FINDINGS OF FACT

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

1. The Department conducted a redetermination on August 17, 2015. The Petitioner returned the Redetermination form in a timely manner. The Petitioner's redetermination advised the Department that the group had received a settlement due to an auto accident in the amount of \$ [REDACTED].
2. The Department sent a manually printed Verification Checklist (VCL) from the Department dated August 27, 2015, with a September 8, 2015, due date. The Petitioner did not receive the checklist. The checklist sought current banking information and proof of the settlement. Exhibit 1.

3. On August 27, 2015, the Department issued a Notice of Case Action closing the Petitioner's FAP case as of October 1, 2015, due to excess assets. This Notice was issued prior to the date the VCL was due. See Exhibits 1 and 2.
4. After the Petitioner reapplied for FAP benefits on October 19, 2015, the Petitioner provided the bank statements and settlement information four (4) days later. The Department approved the new FAP application as of October 19, 2015.
5. The Petitioner requested a hearing on October 23, 2015, protesting the Department's actions.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, 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 Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-119b, and Mich Admin Code, R 400.3001-.3011.

In this case, the Department closed the Petitioner's FAP case on October 1, 2015, due to excess assets. No verification was presented to determine the Petitioner's assets, and the Petitioner credibly testified that the VCL requesting verification of bank accounts and a lawsuit settlement reported by Petitioner on the redetermination was never received. The Department did not rebut this testimony, and the VCL was manually sent rather than by central print; therefore, there was no testimony about whether the VCL was properly mailed by the caseworker. 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 presumption was rebutted because of the Petitioner's testimony, which was that she never received the VCL request and no testimony from the Department was presented to establish that the VCL was properly sent. In addition, once requested to provide the information on reapplication, the Petitioner provided the information within four days of her new application filed on October 19, 2015.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed the Petitioner's FAP case for excess income as the verification request was not

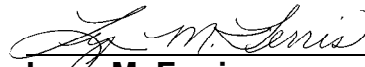
received; and thus, the Department did not provide the Petitioner an opportunity to verify information required to make a determination to support the FAP case closure due to excess assets.

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 Petitioner's FAP case as of October 1, 2015, and determine the Petitioner's eligibility for FAP benefits.
2. The Department shall issue a FAP supplement to the Petitioner that Petitioner is otherwise eligible to receive, if any, in accordance with Department policy.



Lynn M. Ferris

Administrative Law Judge
for Nick Lyon, Director

Department of Health and Human Services

Date Mailed: **12/16/2015**

LMF/jaf

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 copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from 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 48909-8139

cc:

