

**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.: 15-017628
Issue No.: 3002
Agency Case No.: [REDACTED]
Hearing Date: November 12, 2015
County: OAKLAND-DISTRICT 3 (SOUTH)

ADMINISTRATIVE LAW JUDGE: Susanne E. Harris

HEARING DECISION

Following the 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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on November 12, 2015, from Lansing, Michigan. The Claimant, [REDACTED], appeared and testified on her behalf. The Department of Health and Human Services (Department) was represented by Hearing Facilitator, [REDACTED].

ISSUE

Did the Department properly take action to deny the Claimant's application for Food Assistance Program (FAP) benefits due to her failure to return the required verification?

FINDINGS OF FACT

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

1. On August 7, 2015, the Claimant applied for FAP benefits.
2. On August 12, 2015, the Department sent the Claimant a DHS-3503, Verification Checklist requesting verification of assets and employment for herself and her daughter. The verifications were due on August 22, 2015.
3. On September 4, 2015, the Department sent the Claimant a DHS-1605, Notice of Case Action informing the Claimant that her application for FAP had been denied for failure to verify income and assets for herself and her daughter.
4. On September 14, 2015, the Department received the Claimant's written hearing request protesting the denial of her application for FAP benefits.

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 Claimant testified that she never did receive the DHS-38, Verification Checklist nor the accompanying DHS-38, Verification of Employment and DHS-20, Verification of Assets forms. All forms were sent to the address on the notice of hearing and notice of case action, which the Claimant testified that she had received. The Claimant testified on the record that she does not always receive mail consistently at her address. The Claimant did not know why it is that she receives some mail and not other mail.

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 Administrative Law Judge determines that the evidence is insufficient to rebut the presumption that the Claimant received all documents sent to her at the same address.

Additionally, Bridges Assistance Manual (BAM) 130 (2014) p. 2 provides that the Department worker tell the Claimant what verification is required, how to obtain it and the due date by using either a DHS-3503 Verification Checklist, or for MA determinations, the DHS-1175, MA Determination Notice to request verification. In this case, the Department did exactly that.

Bridges Assistance Manual (BAM) 130 (2014) p. 5 provides that verifications are considered to be timely if received by the date they are due. It instructs Department workers to send a negative action notice when the Claimant indicates a refusal to provide a verification, or when the time period given has elapsed and the Claimant has not made a reasonable effort to provide it. In this case, the Administrative Law Judge determines that the time period to submit the verification had lapsed and the Claimant had made no reasonable effort to provide the verification. As such, the Administrative Law Judge concludes that the Department has met its burden of establishing that it was

acting in accordance with policy when taking action to deny the Claimant's FAP application for failure to submit the required verification.

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 took action to deny the Claimant's application for FAP benefits.

DECISION AND ORDER

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



Susanne E. Harris
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Mailed: **11/13/2015**

SEH/sw

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:

