

**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.: 15-015093
Issue No.: 3001; 3002
Agency Case No.: [REDACTED]
Hearing Date: October 22, 2015
County: MACOMB-DISTRICT 36
MACOMB-DISTRICT 20

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 three-way telephone hearing was held on October 22, 2015, from Detroit, Michigan. The Petitioner was represented by [REDACTED] (Petitioner). The Department was represented by [REDACTED], Hearings Facilitator. [REDACTED], Eligibility Specialist, was also present for the hearing acting only as Petitioner's interpreter.

ISSUES

Did the Department properly process Petitioner's Food Assistance Program (FAP) application dated June 12, 2015?

Did the Department properly deny Petitioner's FAP benefits effective July 1, 2015?

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 [REDACTED], Petitioner applied for FAP benefits. See Exhibit A, pp. 6-20.
2. In the application, Petitioner reported his address, a checking account, vehicle asset information, and a rental obligation. See Exhibit A, pp. 8, 12, 13, and 16.
3. On [REDACTED], the Department sent Petitioner a Verification Checklist (VCL) to the address he listed on the application and it was due back by [REDACTED]. See Exhibit A, pp. 4-5. Specifically, the VCL requested verification of Petitioner's

residential address, vehicle ownership, home rent, and checking account. See Exhibit A, pp. 4-5.

4. Petitioner never received the VCL dated [REDACTED] because it was returned back to the Department by the United States Postal Service (USPS) as undeliverable on or around [REDACTED]. See Exhibit A, p. 21 and Exhibit B, p. 1.
5. On [REDACTED], Petitioner's Case Comments – Summary indicated that Petitioner contacted his caseworker requesting an address change, but he failed to provide a new address. See Exhibit A, p. 22.
6. On [REDACTED], Petitioner's Case Comments – Summary indicated that the caseworker contacted the Petitioner and instructed him to report his new address and provide a current copy of his lease or mortgage statement. See Exhibit A, p. 22.
7. Petitioner failed to submit the verifications by the due date of [REDACTED].
8. On [REDACTED] Petitioner submitted verification of his residential address/home rent (lease agreement), vehicle ownership; however, the Department indicated that he failed to submit verification of his checking account. See Exhibit A, pp. 21 and 23-27.
9. Petitioner indicated that he submitted all of his required documentation, including his checking account.
10. On [REDACTED], the Department sent Petitioner a Notice of Case Action notifying him that he was approved for FAP benefits for the time frame of [REDACTED] to [REDACTED]. See Exhibit A, pp. 28-31 and see BAM 117 (July 2014), pp. 1-7 (FAP expedited service).
11. On [REDACTED], the Notice of Case Action also informed Petitioner that his FAP benefits were denied effective [REDACTED], ongoing, due to his failure to submit verification of his bank account checking, how household members are related, and vehicle ownership. See Exhibit A, pp. 28-31.
12. On [REDACTED], Petitioner filed a hearing request, protesting the Department's action. See Exhibit A, pp. 2-3.

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.

Clients must cooperate with the local office in determining initial and ongoing eligibility. BAM 105 (July 2015), p. 8. This includes completion of necessary forms. BAM 105, p. 8.

Additionally, the Department tells the client what verification is required, how to obtain it, and the due date. BAM 130 (July 2015), p. 3. The Department uses the DHS-3503, Verification Checklist (VCL), to request verification. BAM 130, p. 3.

For FAP cases, the Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verifications that is requested. BAM 130, p. 6. Verifications are considered to be timely if received by the date they are due. BAM 130, p. 6. For electronically transmitted verifications (fax, email or Mi Bridges document upload), the date of the transmission is the receipt date. BAM 130, p. 6. Verifications that are submitted after the close of regular business hours through the drop box or by delivery of a MDHHS representative are considered to be received the next business day. BAM 130, p. 6.

The Department sends a negative action notice when: the client indicates 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. 7. Note, for FAP only, if the client contacts the department prior to the due date requesting an extension or assistance in obtaining verifications, assist the client with the verifications but do not grant an extension. BAM 130, p. 7. Explain to the client they will not be given an extension and their case will be denied once the VCL due date is passed. BAM 130, p. 7. Also, explain their eligibility will be determined based on their compliance date if they return required verifications. BAM 130, p. 7. The Department re-registers the application if the client complies within 60 days of the application date. BAM 130, p. 7 and BAM 115 (July 2015), p. 23 (Subsequent Processing). Only adequate notice is required for an application denial. See BAM 130, p. 7. Timely notice is required to reduce or terminate benefits. See BAM 130, p. 7.

Regarding FAP expedited service; it has a shorter standard of promptness and fewer verification requirements to determine FAP eligibility than are normally required. BAM 117 (July 2014), p. 1. In all cases, the applicant's identity must be verified (see BEM 221). BAM 117, p. 3. The data match with Social Security Administration (SSA) is sufficient to verify identity for FAP. BAM 117, p. 3. Reasonable effort must be made to

verify: (i) residency; (ii) income or lack of income; (iii) assets; and (iv) all other eligibility factors. BAM 117, p. 3.

Food Assistance groups that did not provide all required verifications will not be issued benefits for subsequent months until the FAP group provides the waived verification or completes a redetermination. BAM 117, p. 5. Groups that apply after the 15th of the month receive a minimum benefit period of two months (month of application and following month). BAM 117, p. 5. If waived verifications/actions are not met by the 10th day following the request, take the required actions in the Department's system timely to deny the ongoing FAP benefits for the remainder of the benefit period. BAM 117, p. 5.

In the present case, the Department sent the VCL to the address Petitioner reported on his application. See Exhibit A, pp. 4 and 8. However, Petitioner indicated that he never received the VCL dated [REDACTED]. In fact, the VCL was returned back to the Department by the USPS as undeliverable on or around [REDACTED]. See Exhibit A, p. 21 and Exhibit B, p. 1. Petitioner testified that he had issues in receiving mail at this address. Thus, it initially appeared to the undersigned that Petitioner rebutted the presumption of proper mailing of the VCL.

The proper mailing and addressing of a letter creates a presumption of receipt which 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).

However, after a thorough review of the evidence record and testimony, the undersigned concludes that the Petitioner failed to rebut the presumption of proper mailing.

On or around [REDACTED], Petitioner reported a new address and provided verification of the new address along with the lease agreement on [REDACTED]. See Exhibit A, pp. 22-27. A review of the lease agreement indicated that the lease period was from [REDACTED]. See Exhibit A, pp. 23-27. Petitioner signed the lease agreement on [REDACTED] 5. See Exhibit A, p. 27. However, the undersigned was confused why the Petitioner did not report this new address on his FAP application dated [REDACTED]. See Exhibit A, p. 8. The lease agreement containing the new address was signed more than a month before the application.

First, Petitioner testified that at the time of application, he was still awaiting approval for the lease agreement, thus, he reported his old address. But, on cross-examination, Petitioner testified that he moved into his new residence on [REDACTED]. Thus, the undersigned was again confused why Petitioner would not report the new address on his application when he had already been residing there for approximately 12 days. In response, Petitioner changed his testimony and now stated that he had third party assistance to help complete his application on his behalf and they mistakenly entered his old address.

Based on the foregoing information and evidence, it is found that Petitioner failed to rebut the presumption of proper mailing. The undersigned understands that the VCL had been returned as undeliverable and that Petitioner reported his change of address to the Department on or around [REDACTED]. However, at the time the VCL was generated, the Department properly sent the VCL to the address Petitioner reported to the Department. See Exhibit A, pp. 4 and 8. Policy states that clients must completely and truthfully answer all questions on forms and in interviews. BAM 105, p. 8. In this case, Petitioner failed to properly report his new address on the application and the Department properly sent the VCL to the Petitioner based on the address it had at the time. See BAM 105, p. 8.

Next, it has to be determined if the Department properly denied Petitioner's FAP benefits effective [REDACTED], based on this failure to comply with the verification requirements.

On [REDACTED], Petitioner submitted verification of his residential address/home rent (lease agreement), vehicle ownership; however, the Department argued that he failed to submit verification of his checking account. See Exhibit A, pp. 21 and 23-27.

In response, Petitioner could not recall the date he submitted the verifications. However, Petitioner testified that his caseworker informed him via telephone of the documentation that he had to submit. Petitioner testified that he submitted all of the documentation requested by the caseworker at the same time, including his checking account.

The Department, though, provided Petitioner's Electronic Case File (ECF) record, which shows a history of Petitioner's submitted documentation. See Exhibit A, p. 21. A review of the ECF found that Petitioner submitted all of his documentation on June 30, 2015 and in fact, the Department provided a copy of his lease agreement that confirmed it was faxed to the Department on [REDACTED]. See Exhibit A, pp. 21-27. A review of this evidence finds that Petitioner only submitted his lease and vehicle documents on [REDACTED]. See Exhibit A, pp. 21-27. It should be noted that the ECF indicates other unspecified document submitted on [REDACTED], but, nothing identifies banking statements submitted on the ECF. See Exhibit A, p. 21. Moreover, Petitioner did not provide any copies of his checking accounts during the hearing and/or proof that he sent them to the Department.

Based on the foregoing information and evidence, the Department properly denied Petitioner's FAP benefits effective [REDACTED], ongoing. The evidence is persuasive that Petitioner failed to submit verification of his checking account. See Exhibit A, p. 21 (ECF). Ultimately, clients must cooperate with the local office in determining initial and ongoing eligibility, which includes the completion of the necessary forms. BAM 105, p. 8. Because Petitioner failed to submit verification of his checking account, the Department acted in accordance with Department policy when it denied Petitioner's

FAP benefits effective [REDACTED]. BAM 105, p. 8; BAM 117, pp. 1-5; and BAM 130, pp. 1-7. Petitioner can reapply for benefits.

It should be noted that the Department properly issued FAP benefits to the Petitioner for the time period of [REDACTED], based on FAP expedited service policy. See BAM 117, p. 4. (The Department prorates benefits for the month of application, beginning with the date of application, when the group is eligible for the application month as for other FAP program groups). However, because Petitioner did not provide all required verifications, the Department acted in accordance with Department policy when it did not issue benefits for subsequent months beginning [REDACTED], ongoing. See BAM 117, p. 5. (Food Assistance groups that did not provide all required verifications will not be issued benefits for subsequent months until the FAP group provides the waived verification or completes a redetermination. Groups that apply after the 15th of the month receive a minimum benefit period of two months (month of application and following month)).

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 (i) acted in accordance with Department policy when it denied Petitioner's FAP benefits effective [REDACTED]; and (ii) acted in accordance with Department policy when it properly issued FAP benefits to the Petitioner for the time period of [REDACTED], due to FAP expedited service policy.

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



Eric Feldman
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **10/23/2015**

Date Mailed: **10/23/2015**

EF / hw

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:

