

**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.: 15-018900
Issue No.: 2000; 3003
Agency Case No.: [REDACTED]
Hearing Date: December 3, 2015
County: MACOMB-DISTRICT 12

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 telephone hearing was held on December 3, 2015, from Detroit, Michigan. The Petitioner was represented by [REDACTED] (Petitioner). The Department of Health and Human Services (Department) was represented by [REDACTED], Hearings Facilitator.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefits effective October 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. Petitioner was an ongoing recipient of FAP benefits.
2. On [REDACTED], the Department sent Petitioner a Redetermination Telephone Interview (DHS-574) notifying her of a telephone interview scheduled on [REDACTED]. See Exhibit A, p. 5.
3. On [REDACTED], the Department also sent Petitioner a Redetermination (DHS-1010) to redetermine only her FAP eligibility, which was due back by [REDACTED]. See Exhibit A, pp. 6-11.
4. Petitioner indicated that she never received the redetermination telephone interview notice or the redetermination.

5. Petitioner failed to submit the redetermination or complete her scheduled interview on [REDACTED].
6. On [REDACTED], the Department sent Petitioner a Notice of Missed Interview (DHS-254) notifying her to reschedule her interview before [REDACTED], or her redetermination will be denied. See Exhibit A, p. 12.
7. Petitioner indicated that she never received the notice of missed interview.
8. Petitioner failed to submit the redetermination before the benefit period had ended ([REDACTED]).
9. Effective [REDACTED] Petitioner's FAP benefits closed based on her failure to complete the redetermination process.
10. 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.

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

Preliminary matter

On [REDACTED], Petitioner also requested a hearing to dispute the closure of her MA benefits. See Exhibit A, pp. 2-3.

Shortly after commencement of the hearing, it was discovered that Petitioner and her two group member's MA benefits never closed. As part of the evidence record, the Department presented Petitioner's and her group member's Medicaid Eligibility forms that showed all three had no lapse in MA coverage. See Exhibit B, pp. 1-6.

Based on the foregoing information and evidence, Petitioner's MA hearing request is DISMISSED because no negative action occurred. See BAM 600 (April 2015 and October 2015), pp. 1-6. Only Petitioner's FAP benefits had closed; however, her MA benefits are active without any lapse in coverage.

FAP redetermination

A complete redetermination is required at least every 12 months. BAM 210 (July 2015 and October 2015), p. 1. Local offices must assist clients who need and request help to complete applications, forms and obtain verifications. BAM 210, p. 1.

For FAP cases, benefits stop at the end of the benefit period unless a redetermination is completed and a new benefit period is certified. BAM 210, p. 2. If the client does not begin the redetermination process, the Department allows the benefit period to expire. BAM 210, p. 2.

Moreover, an interview is required before denying a redetermination even if it is clear from the DHS-1010/1171 or other sources that the group is ineligible. BAM 210, p. 3. For FAP telephone interviews, the individual interviewed may be the client, the client's spouse, any other responsible member of the group or the client's authorized representative. BAM 210, p. 4. If the client misses the interview, the Department sends a DHS-254, Notice of Missed Interview. BAM 210, p. 4. The Department conducts a telephone interview at redetermination before determining ongoing eligibility. BAM 210, p. 4 and also policy relating to in-person interviews. To conduct the interview, the Department obtains a complete redetermination/review packet from the client. BAM 210, p. 12 (see additional steps the Department completes when conducting the interview).

A redetermination/review packet is considered complete when all of the sections of the redetermination form including the signature section are completed. BAM 210, p. 10. When a complete packet is received, the Department records the receipt in its system as soon as administratively possible. BAM 210, p. 10. If the redetermination is submitted through MI Bridges, the receipt of the packet will be automatically recorded. BAM 210, p. 10.

For FAP cases, if the redetermination packet is not logged in by the last working day of the redetermination month, the Department automatically closes the Eligibility Determination Group (EDG). BAM 210, p. 11. A DHS-1605, Notice of Case Action, is not generated. BAM 210, p. 11.

At the hearing, Petitioner testified that she never received the redetermination telephone interview notice, the redetermination, or the notice of missed interview. Because Petitioner did not receive this documentation, she argued that she was unaware that she had to submit it. In or around March of 2015, Petitioner testified that she moved into her current residence. However, Petitioner testified that it was not until in or around May 2015 that she began having issues in receiving correspondence. For example, Petitioner testified that she did not receive mail from the [REDACTED] (county court) regarding her child support. Petitioner testified that she was notified by the county court that they attempted to send her mail but that it came back as undeliverable. Petitioner testified that she finally received the original mail approximately three months later, which showed return-to-sender on the correspondence.

Additionally, Petitioner testified that she notified the United States Postal Service (USPS) of her mailing issues and they made her fill out another change of address form in or around June or July of 2015 (resubmitting her current address). In or around October 2015, Petitioner testified that she finally began receiving her correspondence. It should be noted that the undersigned issued a separate decision in June 2015 and she testified that she did not receive the Decision and Order either (see Reg. No. 15-007847). Petitioner testified that she also contacted her Department worker, but this did not occur until October 2015.

Finally, Petitioner testified the mailing addresses on all three documents were the proper address. See Exhibit A, pp. 5-12. The Department testified that all three documents were mailed via central print and it did not receive any unreturned mail from the USPS.

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).

Based on the foregoing information and evidence, the Department properly closed Petitioner's FAP case effective [REDACTED], ongoing, in accordance with Department policy. It is found that Petitioner failed to rebut the presumption of proper mailing. Petitioner failed to present any written proof that she had difficulty in receiving correspondence from her residence. For example, Petitioner failed to present her return-to-sender mail that she finally received from the county court or the change of address form she resubmitted at the USPS. Instead, the undersigned finds that the Department provided credible evidence and testimony that it properly sent the redetermination to the Petitioner's address. See Exhibit A, pp. 5-11. Moreover, the Department did not receive any undeliverable mail regarding Petitioner's correspondence. Because the redetermination/other Department correspondence were properly mailed to Petitioner's address and the fact that she failed to complete the redetermination process before the benefit period had ended ([REDACTED]), the

Department acted in accordance with Department policy when it closed Petitioner's FAP case effective [REDACTED]. BAM 210, pp. 1-11.

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 acted in accordance with Department policy when it closed Petitioner's FAP benefits effective [REDACTED].

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

IT IS ALSO ORDERED that Petitioner's MA hearing request (dated [REDACTED]) is **DISMISSED**.



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

Date Signed: **12/4/2015**

Date Mailed: **12/4/2015**

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:

A large black rectangular redaction box covers the names and contact information of the recipients listed in the CC field.