

**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.: 15-020385
Issue No.: 3002
Agency Case No.: [REDACTED]
Hearing Date: January 05, 2016
County: OAKLAND 3

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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, telephone hearing was held on January 05, 2016, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. [REDACTED] (Hearing Facilitator) represented the Department of Health and Human Services (Department).

ISSUE

Did the Department of Health and Human Services (Department) properly close the Claimant's Food Assistance Program (FAP) benefits?

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 Claimant was an ongoing Food Assistance Program (FAP) recipient.
2. On February 26, 2015, the Department initiated a Front End Eligibility (FEE) investigation into the Claimant's eligibility for Food Assistance Program (FAP) benefits based on his use of his benefits outside Michigan from November 1, 2014, through February 24, 2015.
3. On March 5, 2015, the Department sent the Claimant a Verification Checklist (DHS-3503) requesting verification of his current address or phone number by March 16, 2015.
4. On March 18, 2015, the Department notified the Claimant that it would close his Food Assistance Program (FAP) benefits as of April 1, 2015.

5. On October 29, 2015, the Department received the Claimant's request for a hearing protesting the closure of his Food Assistance Program (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.

Clients must cooperate with the local office in determining initial and ongoing eligibility and this includes the completion of necessary forms. Department of Human Services Bridges Assistance Manual (BAM) 105 (July 1, 2015), p 8.

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level when it is required by policy, required as a local office option, or information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. The Department uses documents, collateral contacts, or home calls to verify information. A collateral contact is a direct contact with a person, organization, or agency to verify information from the client. When documentation is not available, or clarification is needed, collateral contact may be necessary. Department of Human Services Bridges Assistance Manual (BAM) 130 (July 1, 2015), pp 1-9.

To be eligible for FAP benefits, a person must be a Michigan resident. A person is considered a resident under the Food Assistance Program (FAP) while living in Michigan for any purpose other than a vacation, even if there is no intent to remain in the state permanently or indefinitely. Department of Health and Human Services Bridges Eligibility Manual (BEM) 220 (July 1, 2014), p 1.

The Claimant was an ongoing FAP recipient when the Department discovered that he had use his benefits exclusively outside Michigan from November 1, 2014, through February 24, 2015. Based on this information, the Department initiated a Front End Eligibility (FEE) investigation into the Claimant's eligibility for FAP benefits.

On March 5, 2015, the Department sent the Claimant a Verification Checklist (DHS-3503) requesting verification of his current address or phone number by March 16,

2015. On March 18, 2015, the Department had not received a response to its inquiry and it notified the Claimant that it would close his FAP benefits as of April 1, 2015.

The Claimant testified that he was out of Michigan for the purposes of receiving medical treatments and has intended to remain a resident of Michigan throughout this entire period. The Claimant testified that he did not receive the March 5, 2015, Verification Checklist (DHS-3503) form. The Claimant testified that he provided the Department with a post office box as his mailing address where he requested all correspondence be sent while he was outside Michigan. The Department submitted a copy of a Health Care Coverage Determination Notice (DHS-1606) that was mailed on July 8, 2015, to this PO Box address.

The Department's representative testified that no change of mailing address was received from the Claimant as late as October of 2014, when the Claimant reported no changes to his circumstances.

For the purposes of this hearing decision, it is not relevant whether the Claimant was a Michigan resident from November 1, 2014, through February 24, 2015, or whether the reported that he would be outside Michigan in a timely manner. The Department acting in accordance with policy on March 5, 2015, when it requested verification of the Claimant's current address based on information that suggested he was no longer a Michigan resident. It is not disputed that the Claimant did not respond to this request for necessary information because he testified that he did not receive that written request.

While a presumption arises that a letter with a proper address and postage will, when placed in the mail be delivered by the postal service, this presumption can be rebutted with evidence that the letter was not received. If such evidence is presented, as it was here, then a question of fact arises regarding whether the letter was received. [Citations omitted.] *Goodyear Tire & Rubber Co v Roseville*, 468 Mich 947; 664 NW2d 751 (2003).

In this case, the evidence on the record does not support a finding that the Claimant reported a temporary absence from Michigan or change of mailing address different from his physical address before March 5, 2015. Therefore, this Administrative Law Judge finds that the Claimant failed to rebut the presumption that received the March 5, 2015, Verification Checklist (DHS-3503).

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 the Claimant's Food Assistance Program (FAP) effective April 1, 2015.

DECISION AND ORDER

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



Kevin Scully
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Mailed: **1/7/2016**

KS/nr

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:

