



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

MIKE ZIMMER
DIRECTOR

[REDACTED]

Date Mailed: April 4, 2016
MAHS Docket No.: 16-001740
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jacquelyn A. McClinton

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 March 28, 2016, from Detroit, Michigan. The Petitioner was present and represented by [REDACTED] Esq. [REDACTED] Hearing Facilitator appeared on behalf of the Department. The Department of Health and Human Services (Department) was represented by [REDACTED], Esq.

ISSUE

Did the Department properly reduce Petitioner's FAP benefits effective October 1, 2016 for failure to return 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. Petitioner is an ongoing FAP recipient.
2. Petitioner applied for State Emergency Relief to seek rent assistance payment.
3. During his application for State Emergency Relief, Petitioner reported an increase in his rent.
4. On [REDACTED], the Department sent Petitioner a Shelter Verification to be returned on or before [REDACTED].

5. Petitioner failed to timely return the Shelter Verification, and on August 24, 2015, the Department sent Petitioner a Notice of Case Action notifying him that his FAP benefits would be reduced to \$16.00 per month, effective [REDACTED].
6. On or about [REDACTED], Petitioner filed a Request for Hearing disputing 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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Department of Human Services) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101-.3131.

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.

Withdrawal on Record

The hearing was requested to dispute the Department's action taken with respect to the FIP and SER program benefits. Shortly after commencement of the hearing, Petitioner testified that he did not wish to proceed with the hearing. The Request for Hearing was withdrawn. The Department agreed to the dismissal of the hearing request.

Pursuant to the withdrawal of the hearing request filed relating to FIP and SER benefits, the Request for Hearing is, hereby, **DISMISSED**.

Timeliness of Hearing Request

In this case, the Department asserted that Petitioner's request for hearing was untimely. Regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in Mich Admin Code, R 792.10101 to R 792.10137 and R 792.11001 to R 792.11020. Rule 792.11002(1) provides as follows:

An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance is denied or is not acted upon with reasonable

promptness, has received notice of a suspension or reduction in benefits, or exclusion from a service program, or has experienced a failure of the agency to take into account the recipient's choice of service.

A client's request for hearing must be in writing and signed by an adult member of the eligible group, adult child, or authorized hearing representative (AHR). Department of Health and Human Services Bridges Administrative Manual (BAM) 600 (April 2015), p. 2. Moreover, BAM 600, p. 6 provides that a request for hearing must be received in the Department local office within 90 days of the date of the written notice of case action.

Additionally, Department policy holds that Supplemental Food Assistance benefit issuances (supplements) **must** be issued when the regular FAP issuance for the current or prior month(s) is less than the group is eligible for, or for periods when the group was eligible but received no regular benefits. BAM 406 (July 2013), p. 1. These supplements are limited to underissuances in the **twelve months** before the month in which the earliest of the following occurred:

- The local office received a request for lost benefits from the eligible group.
- The local office discovered that a loss occurred.
- The group requested a hearing to contest a negative action which resulted in a loss.
- The group initiated court action to obtain lost benefits. BAM 406, p. 3.

In the present case, on [REDACTED], the Department sent Petitioner a Notice of Case Action advising Petitioner of its decision to reduce Petitioner's FAP benefits to \$16.00 per month effective [REDACTED]. Petitioner did not file a request for hearing to contest the Department's action until [REDACTED]. Petitioner testified that he contacted his worker on several occasions and left a voice message requesting that a hearing form be sent to him. The "Hearing Rights" section of the Notice of Case Action indicated that "Food Assistance Program hearings may be requested by your Specialist." The specialist assigned to Petitioner was not present at the hearing. Additionally, the Department acknowledged that the specialist assigned to Petitioner was off from work for various periods of time. As such, it is found that Petitioner's Request for Hearing is timely under Department policy.

FAP Benefits

Petitioner applied for State Emergency Relief, seeking rent payment assistance. At the time of the request, Petitioner informed his assigned specialist that his rent had increased from \$615.00 to \$650.00 per month. Additionally, verifications are usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (January 2016), p. 1.

In response to the verbal notice of the change in Petitioner's shelter expense, the Department mailed Petitioner a Shelter Verification to be completed by his landlord and returned on or before [REDACTED]. Petitioner testified that he did not receive the

Shelter Verification form. It should be noted that Petitioner acknowledged receipt of the State Emergency Relief Decision Notice which denied his request for rent payment assistance and was sent on [REDACTED], the same date as the Shelter Verification. Petitioner also acknowledged receipt of the Notice of Case Action sent to Petitioner on [REDACTED].

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). There was no evidence provided that Petitioner was experiencing any issues with his mail. Petitioner received other documents from the Department, one of which was sent on the same date as the Shelter Verification. Additionally, there was no evidence provided to indicate that the mail was returned as undeliverable. As such, it is found that Petitioner has failed to rebut the presumption that the Shelter Verification was received.

Notwithstanding this, the Notice of Case Action informed Petitioner that his FAP benefits would be reduced to \$16.00 per month effective [REDACTED] for failure to verify his current shelter expense. In response to the receipt of the Notice of Case Action, Petitioner sent the Department outdated documentation which did not contain the current shelter expenses as reported. Petitioner was unable to provide a reasonable explanation as to why he failed to provide current, accurate information to the Department. It is therefore found that Petitioner failed to verify current shelter expenses needed to determine his eligibility for benefits. Because Petitioner failed to verify the current shelter expenses, the Department properly removed the shelter expense from the calculation of Petitioner's FAP benefits.

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 reduced Petitioner's FAP benefits effective [REDACTED].

DECISION AND ORDER

The request to withdraw Petitioner's Request for Hearing relating to FIP and SER benefits is hereby **GRANTED**.

Accordingly, the Department's decision is **AFFIRMED** regarding the reduction of FAP benefits effective [REDACTED].

JM/hw



Jacquelyn A. McClinton

Administrative Law Judge

for Nick Lyon, Director

Department of Health and Human Services

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088; 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

Counsel for Respondent

[REDACTED]

DHHS

[REDACTED]

Petitioner

[REDACTED]

Counsel for Complainant

[REDACTED]