



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR



Date Mailed: May 4, 2016
MAHS Docket No.: 16-003901
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

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 April 27, 2016, from Detroit, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by [REDACTED] Eligibility Specialist.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefits for receiving mail returned as undeliverable?

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 FAP recipient.
2. On December 21, 2015 and January 29, 2016, the Department sent correspondence to the Petitioner.
3. This correspondence was returned as undeliverable.
4. Because this correspondence was returned as undeliverable, the Department closed Petitioner's benefit case on April 1, 2016.

5. On March 21, 2016, Petitioner requested a hearing.

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.

Leaving aside the fact that Petitioner requested a hearing on March 21, 2016, and thus contacted the Department (meaning Petitioner had been located), the simple truth is that there is no policy that allows for the closure of an FAP case based on the receipt of returned mail.

While the Department representative cited BEM 220 (despite admission during the hearing that she had never read BEM 220), the undersigned could not, despite careful perusal, find any such clause in that policy allowing for the closure of an FAP case based on returned mail.

An argument might be made that verification that a client lives in the area that the office serves is required at application. However, the undersigned would point out that this clause applies:

- a) only at application, not during the middle of an eligibility period;
- b) only to make sure that a client is being served by the correct office, and not to deny benefits, and;
- c) with the caveat that benefits are never to be denied solely for the lack of a verified address.

Other than this clause there is nothing in BEM 220 that even addresses “unable to locate household” as repeatedly cited by the Department representative.

The undersigned was unable to locate any other policy regarding “unable to locate”.

Therefore, as there is no policy addressing FAP case closure in this situation, and given that the Department admitted on the record that they were not actually familiar with policy in this matter when closing Petitioner’s FAP benefit case, the undersigned holds

that the Department was in error when closing the FAP case based upon non-existent policy.

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 did not act in accordance with Department policy when it closed Petitioner's FAP case.

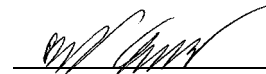
DECISION AND ORDER

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

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reinstate Petitioner's FAP benefits retroactive to the date of case closure and issue any FAP supplements to which the Petitioner is otherwise entitled.

RC/tm



Robert J. Chavez
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

DHHS

[REDACTED]

[REDACTED]

[REDACTED]

cc:

[REDACTED]