



RICK SNYDER  
GOVERNOR

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

SHELLY EDGERTON  
DIRECTOR

[REDACTED]

Date Mailed: June 9, 2016  
MAHS Docket No.: 16-006113  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris**

### **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 [REDACTED] [REDACTED] 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 closed the Petitioner's Food Assistance Program (FAP) case?

### **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 Petitioner was an ongoing recipient of FAP benefits.
2. The Department sent the Petitioner a Semi-Annual Contact Report on [REDACTED] [REDACTED] with a due date of [REDACTED]. Exhibit 1.
3. The Petitioner received the Semi Annual Contact Report and returned it to the Department completed.
4. The Department sent the Petitioner a Notice of Potential Food Assistance Program (FAP) Closure on [REDACTED], advising her that the Department had not

received the Petitioner's Semi-Annual Contact Report and to call her Specialist if the notice was issued in error. The case was to be closed effective [REDACTED]. Exhibit 2.

5. The Petitioner called her caseworker to advise her that the form had been completed and mailed back to the Department in the self-addressed envelope. The Petitioner never heard back from the Department after several calls. Unbeknownst to the Petitioner, the Specialist was on leave at the time of the Notice.
6. The Petitioner requested a timely hearing on [REDACTED], protesting 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 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.

In this case, the Department closed the Petitioner's FAP case for failure to complete the Semi-Annual Contact Report. The Petitioner credibly testified at the hearing that she returned the completed Semi-Annual Report in a timely manner, having mailed it from a mailbox located on her street using the Department's self-addressed envelope provided for her use. Thereafter, when she received the Notice of Potential Food Assistance Program (FAP) Closure, she contacted her worker as instructed by the notice. Exhibit 2.

The Department testified at the hearing that it did not receive a completed Semi Annual Report. Department further confirmed that the Petitioner's worker listed on the Notice of Potential Food Assistance Closure was on leave at the time the notice was sent. No one returned any of Petitioner's calls. The proper mailing and addressing of a letter creates a presumption of receipt. That presumption 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). In this case, the Petitioner's testimony that she properly use the self-addressed envelope and deposited it in a mailbox created a presumption that the letter sent to the Department was received. The Department did not present any evidence that it was not received, and no electronic case file was

presented to show what correspondence, if any, appeared in Petitioner's case. Thus, under these circumstances, it is determined as a matter of law that the Petitioner's FAP case should not have been closed and must be reinstated.

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 close the Petitioner's FAP case for failure to complete the Semiannual Report.

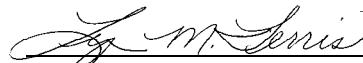
### **DECISION AND ORDER**

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. The Department shall reinstate the Petitioner's FAP case retroactive to the date of closure, [REDACTED], and allow Petitioner to complete the Semi-Annual Contact Report and process the case accordingly.
2. The Department shall issue an FAP supplement to the Petitioner if the Petitioner is otherwise eligible, in accordance with Department policy.

LMF/jaf



**Lynn M. Ferris**

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]

**Petitioner**

[REDACTED]

**cc:**

[REDACTED]