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GOVERNOR

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

MIKE ZIMMER
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: April 19, 2016
MAHS Docket No.: 16-001030
Agency No.: [REDACTED]
[REDACTED]

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 24, 2016, from Detroit, Michigan. The Petitioner appeared for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearings Facilitator.

ISSUE

Did the Department properly process Petitioner's application for Food Assistance Program (FAP) benefits and deny her application for Family Independence Program (FIP) 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. Petitioner was previously a recipient of FAP and FIP benefits.
2. On an unverified date, Petitioner's FAP and FIP cases closed.
3. On November 9, 2015, Petitioner submitted an application for FAP, FIP, and Medical Assistance (MA) benefits. (Exhibit A)

4. On November 10, 2015, the Department sent Petitioner a Verification Checklist (VCL) instructing her to submit requested verifications by November 20, 2015. (Exhibit E)
5. On November 10, 2015, the Department sent Petitioner a PATH Appointment Notice instructing her to attend PATH orientation on November 23, 2015. (Exhibit C)
6. Petitioner did not attend PATH orientation on November 23, 2015, and did not contact the Department about her inability to attend PATH orientation. (Exhibit D)
7. On December 1, 2015, the Department sent Petitioner a Notice of Case Action informing her that her FIP application was denied on the basis that she did not attend PATH orientation and that she was ineligible for FAP benefits on the basis that she failed to return requested verifications. (Exhibit G)
8. On January 25, 2016, Petitioner requested a hearing disputing the Department's actions with respect to her FAP and FIP 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).

As a preliminary matter, although it was established that Petitioner was previously an ongoing recipient of program benefits and that her cases closed prior to her hearing request, Petitioner clarified at the hearing that she requested a hearing to dispute the Department's actions taken with respect to her November 9, 2015, application for FAP and FIP benefits.

FAP

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.

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 (October 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. MAHS may grant a hearing about a denial of an application and/or supplemental payments; reduction in the amount of program benefits or service; suspension or termination of program benefits or service; restrictions under which benefits or services are provided or delay of any action beyond the standards of promptness. BAM 600, pp.4-5.

In the present case, the Department initially denied Petitioner's FAP application on the basis that she failed to return requested verifications. It was established that after receiving the request for hearing, the Department reprocessed Petitioner's FAP application and approved her for FAP benefits from the application date of November 9, 2015, ongoing. The Department presented an eligibility summary in support of its testimony and Petitioner confirmed that although she received the benefits late, she did receive FAP benefits for the months of November 2015, December 2015, and January 2016, ongoing. (Exhibit B). Petitioner further confirmed that the issue concerning her FAP benefits that she requested a hearing to dispute had been resolved and that there remained no issue regarding FAP benefits for the hearing.

The evidence presented established that prior to the hearing, the Department corrected the action that Petitioner requested a hearing on concerning her FAP benefits. Therefore, there remains no issue left to be resolved with respect to Petitioner's FAP case. As such, the hearing request concerning FAP is **DISMISSED**.

FIP

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.

Additionally, PATH participants must complete the 21-day PATH application eligibility period (AEP) part of orientation which is an eligibility requirement for approval of the FIP application. BEM 229 (October 2015), pp. 1, 6. This requires that the client (i) begin the AEP by the last date to attend as indicated on the PATH Appointment Notice, (ii) complete the PATH AEP requirements, and (iii) continue to participate in PATH after completion of the 21-day AEP. BEM 229, p.1. The last day to attend AEP/orientation may be extended when necessary. BEM 229, pp.6-7. Failure by a client to complete the three components of the AEP referenced above or to participate fully in assigned activities while the FIP application is pending will result in denial of FIP benefits. BEM 229, pp. 1, 6.

In this case, in connection with the FIP application, the Department sent Petitioner a PATH Appointment Notice instructing her to attend PATH orientation on November 23, 2015. (Exhibit C). The Department testified that because Petitioner did not attend PATH orientation and because Petitioner did not contact the Department regarding her inability

to attend PATH orientation, the application was denied and a Notice of Case Action advising of the denial was sent on December 1, 2015. (Exhibit G).

At the hearing, Petitioner stated that she did not attend PATH orientation because she did not receive the PATH Appointment Notice advising her of the orientation date. The proper mailing and addressing of a letter creates a presumption of receipt. That presumption, however, 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). A review of the PATH Appointment Notice establishes that it was sent to Petitioner's confirmed mailing address and the address that she had listed on her FIP application. Petitioner asserted that she was having problems with receiving mail and that she reported the mail issues to the Department. Petitioner confirmed that she did receive the above referenced VCL, Notice of Case Action and Notice of Hearing which were all sent to Petitioner's confirmed mailing address. Thus, based on Petitioner's testimony at the hearing, she has not presented sufficient evidence to rebut the presumption that she received the PATH Appointment Notice.

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 because Petitioner did not attend PATH orientation as instructed, the Department acted in accordance with Department policy when it denied Petitioner's FIP application on the basis that she failed to attend PATH orientation. Petitioner is informed that she may reapply for FIP benefits and have her eligibility determined.

DECISION AND ORDER

Accordingly, the hearing request with respect to FAP is **DISMISSED** and the Department's FIP decision is **AFFIRMED**.

ZB/tlf



Zainab Baydoun

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

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