



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 11, 2016
MAHS Docket No.: 16-002416
Agency No.: [REDACTED]
Petitioner: [REDACTED].

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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. After due notice, telephone hearing was held on April 07, 2016, from Lansing, Michigan. Participants on behalf of Petitioner included [REDACTED]. [REDACTED] represented the Department of Health and Human Services (Department). Witnesses on behalf of the Department included [REDACTED] and [REDACTED].

ISSUE

Did the Department of Health and Human Services (Department) properly determined the Petitioner's eligibility for the Food Assistance Program (FAP)?

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 is an ongoing Food Assistance Program (FAP) recipient.
2. On May 21, 2015, the Petitioner had reported to the Department that he was responsible for a monthly \$ [REDACTED] mortgage expense. Exhibit A, p 28.
3. On November 26, 2015, the Department received the Petitioner's application for food assistance, cash assistance, and State Emergency Relief (SER) benefits. Exhibit A, p 7.
4. On the Petitioner's application for benefits, the Petitioner reported monthly housing expenses of \$ [REDACTED] Exhibit A, p 10.

5. On November 30, 2015, the Department sent the Petitioner a Verification Checklist (DHS-3503) at his mailing address of record requesting verification of his monthly mortgage expenses by December 10, 2015. Exhibit A, p 29.
6. On December 30, 2015, the Department notified the Petitioner that it would reduce his monthly allotment of Food Assistance Program (FAP) benefits to \$ [REDACTED] effective February 11, 2016, after reducing his monthly housing expenses. Exhibit A, p 3.
7. On February 16, 2016, the Department received the Petitioner's request for a hearing protesting his Food Assistance Program (FAP) benefits. Exhibit A, p 1.

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.

The Department will verify shelter expenses at application and when a change is reported. If the client fails to verify a reported change in shelter, the Department will remove the old expense until the new expense is verified. Department of Health and Human Services Bridges Eligibility Manual (BEM) 554 (October 1, 2015), p 14.

The Petitioner has been an ongoing FAP recipient. On May 21, 2015, the Petitioner had reported that he was responsible for a monthly \$ [REDACTED] mortgage expenses. On November 26, 2015, the Department received the Petitioner's application for cash assistance, FAP, and SER benefits. On this application, the Petitioner reported being responsible for monthly housing expenses of \$ [REDACTED]. Since this was a change of his circumstances that could potentially affect his eligibility for continuing benefits, the Department sent the Petitioner a Verification Checklist (DHS-3503) on November 30, 2015, requesting verification of his housing expenses by December 10, 2015. On December 30, 2015, the Department notified the Petitioner that it would reduce his monthly allotment of FAP benefits to \$ [REDACTED] as of February 1, 2016, after removing his mortgage expense from his FAP budget.

The Petitioner testified that he did not receive the Verification Checklist (DHS-3503) form. The Petitioner also testified that he was difficulty obtaining verification of his current mortgage payment because his mortgage had just been transferred from one company to another.

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 Department presented substantial evidence that it mailed the Petitioner a Verification Checklist (DHS-3503) addressed to his correct mailing address of record and the Petitioner failed to rebut the presumption of receipt.

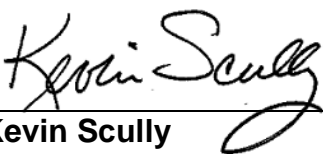
This Administrative Law Judge finds that the Petitioner had a duty to provide the Department with verification of his monthly housing expenses, and the Department was acting in accordance with its policies when it removed the unverified expenses from its determination of his FAP eligibility.

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 determined the Petitioner's monthly allotment of Food Assistance Program (FAP) benefits as of February 1, 2016.

DECISION AND ORDER

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

KS/las



Kevin Scully
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]

Petitioner

[REDACTED]