



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: October 18, 2016
MAHS Docket No.: 16-013140
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Eric J. Feldman

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 three-way telephone hearing was held on [REDACTED], from Detroit, Michigan. The Petitioner was represented by [REDACTED] (Petitioner). The Department of Health and Human Services (Department) was represented by [REDACTED], Hearings Facilitator.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefits effective [REDACTED]?

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 ongoing recipient of FAP benefits. Exhibit A, p. 3.
2. On [REDACTED], the Department sent Petitioner a Redetermination (DHS-1010) to redetermine her eligibility for FAP and Medical Assistance (MA) benefits, which was due back by [REDACTED] 2016. Exhibit B, pp. 1-7. Petitioner had until the end of [REDACTED] to submit the Redetermination.
3. On [REDACTED], the Department also sent Petitioner a Redetermination Telephone Interview (DHS-574) notice informing her that she had a telephone interview scheduled for [REDACTED]. Exhibit B, p. 1.

4. The Department did not receive the Redetermination by the [REDACTED], due date.
5. On [REDACTED], the Department sent Petitioner a Notice of Missed Interview (DHS-254) informing her that she missed her scheduled interview to redetermine her FAP benefits; and it is her responsibility to reschedule the interview before [REDACTED], or her redetermination will be denied. Exhibit B, p. 8.
6. The Department did not receive the Redetermination by the end of the benefit period ([REDACTED]). Exhibit A, p. 2 (Electronic Case File).
7. Effective [REDACTED], Petitioner's FAP benefits closed based on the failure to obtain the Redetermination.
8. On [REDACTED], Petitioner filed a hearing request, protesting the closure of her FAP benefits. Exhibit A, p. 6.

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.

Clients must cooperate with the local office in determining initial and ongoing eligibility. BAM 105 (April 2016), p. 9. This includes completion of necessary forms. BAM 105, p. 9.

The Michigan Department of Health & Human Services (MDHHS) must periodically redetermine or renew an individual's eligibility for active programs. BAM 210 (July 2016), p. 1. The redetermination/renewal process includes thorough review of all eligibility factors. BAM 210, p. 1.

A complete redetermination/renewal is required at least every 12 months. BAM 210, p. 2. For FAP cases, benefits stop at the end of the benefit period unless a redetermination is completed and a new benefit period is certified. BAM 210, p. 3. If the client does not begin the redetermination process, allow the benefit period to expire. BAM 210, p. 3.

Interview requirements are determined by the program that is being redetermined. BAM 210, p. 4. For FAP cases, an interview is required before denying a redetermination even if it is clear from the DHS-1010/1171 or other sources that the group is ineligible. BAM 210, p. 4. The individual interviewed may be the client, the client's spouse, any other responsible member of the group or the client's authorized representative. BAM 210, p. 5. If the client misses the interview, the Department sends a DHS-254, Notice of Missed Interview. BAM 210, p. 5.

A redetermination/review packet is considered complete when all of the sections of the Redetermination Form including the signature section are completed. BAM 210, p. 11. Exception: For FIP, SDA and FAP only, if any section of the redetermination/review packet has not been completed but there is a signature, consider the redetermination/review complete. BAM 210, p. 11. Complete any missing sections during the interview. BAM 210, p. 11. When a complete packet is received, record the receipt in Bridges as soon as administratively possible. BAM 210, p. 11. If the redetermination is submitted through MI Bridges, the receipt of the packet will be automatically recorded. BAM 210, p. 12.

For FAP cases, if the redetermination packet is not logged in by the last working day of the redetermination month, the Department automatically closes the Eligibility Determination Group (EDG). BAM 210, p. 12. A DHS-1605, Notice of Case Action, is not generated. BAM 210, p. 12.

In the present case, the Department testified that it mailed the Redetermination to Petitioner and never received it. In fact, the Department presented an Electronica Case File (ECF) document to show that the last correspondence it ever received from Petitioner was an earnings statement on [REDACTED]. Exhibit A, p. 2.

In response, Petitioner makes the following arguments and/or assertions: (i) she received the Redetermination and completed it right away in her vehicle and then mailed it to the Department; (ii) she indicated that she did not make a copy of the Redetermination; (iii) she had the same previous problems with her MA benefits; (iv) she did not receive the Notice of Missed Interview dated [REDACTED]; and (v) she pointed out that the Pre-Hearing Conference Notice dated [REDACTED], (Exhibit A, p. 7), was postmarked [REDACTED]; and she received it on [REDACTED], which was the same day as her pre-hearing conference; she is trying to show that the Department has processing issues (i.e., mailing issues). It should be noted that the Department testified that the Notice of Missed Interview was mailed via central print to Petitioner's proper address, and it was not returned by the United States Postal Service as undeliverable. See Exhibit A, p. 5 (View History Correspondence).

Based on the foregoing information and evidence, the Department properly closed the FAP benefits effective [REDACTED], in accordance with Department policy.

First, Petitioner claimed that she never received the Notice of Missed Interview. Exhibit B, p. 8. Case law states that 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). Based on the above case law and the evidence record, it is found that Petitioner failed to rebut the presumption of proper mailing. The Department provided sufficient evidence to show that it sent Petitioner the Notice of Missed Interview to the proper address on [REDACTED]; and that it did not come back as undeliverable mail from the USPS. See Exhibit A, p. 5. As such, it is found that the Department properly sent Petitioner her the Notice of Missed Interview to her proper address in [REDACTED] Exhibit A, p. 5, and Exhibit B, p. 8.

Second, Petitioner claimed that she completed the Redetermination right after she received it and mailed it to the Department; however, she failed to provide any documentation showing that she completed the Redetermination. Instead, the Department provided credible evidence that it never received the Redetermination before the benefit period expired. As part of the evidence record, the Department presented an ECF document, which showed that the Department did not receive any Redetermination before the benefit period had expired. Exhibit A, p. 2. The Department proved by a preponderance of evidence that Petitioner failed to submit the Redetermination before the end of the benefit period ([REDACTED]). Because Petitioner failed to submit the Redetermination before the end of the benefit period ([REDACTED]), the Department acted in accordance with Department policy when it closed Petitioner's FAP benefits effective [REDACTED]. See BAM 105, p. 9 and BAM 210, pp. 1-12. Petitioner can reapply for FAP benefits.

DECISION AND ORDER

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 properly closed Petitioner's FAP benefits effective [REDACTED].

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

EJF/jaf



Eric J. Feldman
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



Petitioner



Via email

