



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]
Date Mailed: November 21, 2016
MAHS Docket No.: 16-013268
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, an in-person hearing was held on November 17, 2016, from Detroit, Michigan. The Petitioner was represented by her Authorized Hearing Representative (AHR)/counsel, [REDACTED] from [REDACTED]. [REDACTED] Petitioner was also present at the proceeding and provided testimony. The Department of Health and Human Services (Department) was represented by [REDACTED] [REDACTED] Program Manager.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefits effective September 1, 2016?

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 is an ongoing recipient of FAP benefits, but she did not receive benefits from September 1, 2016 to September 18, 2016. Exhibit A, p. 9.
2. On July 1, 2016, the Department sent Petitioner a Semi-Annual Contact Report (hereinafter referred to as "contact report") to her previous address and the contact report was due back by August 1, 2016. Exhibit A, pp. 4-5.
3. Petitioner did not submit the contact report by August 1, 2016.

4. On August 10, 2016, the Department sent Petitioner a Notice of Potential Food Assistance (FAP) Closure to her previous address and notified her that the Department did not receive her contact report and that her FAP benefits would close effective August 31, 2016. Exhibit A, p. 6.
5. Petitioner failed to return her contact report by August 31, 2016.
6. Effective September 1, 2016, Petitioner's FAP benefits closed due to her failure to return the contact report. Exhibit A, p. 9.
7. On September 14, 2016, Petitioner filed a hearing request, protesting the Department's action. Exhibit A, pp. 2-3.

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.

Preliminary matter

Shortly after commencement of the hearing, it was determined that the only issue the undersigned Administrative Law Judge (ALJ) would address was whether the Department properly closed Petitioner's FAP benefits effective September 1, 2016. The undersigned addresses this issue below:

FAP closure

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. Redetermination, renewal, semi-annual and mid-certification forms are often used to redetermine eligibility of active programs. BAM

210, p. 1. Local offices must assist clients who need and request help to complete applications, forms and obtain verifications. BAM 210, p. 1.

For FAP only, the Department sends a DHS-2240-A, Mid-Certification Contact Notice, for groups assigned a 24-month benefit period during the 11th month of their benefit period and a DHS-1046, Semi-Annual Contact Report, the beginning of the fifth month for cases assigned a 12-month benefit period. BAM 210, p. 10.

The DHS-1046 and DHS-2240A may be completed by the client, the client's authorized filing representative or by the specialist (during a telephone call, home call or interview with the client). BAM 210, p. 10. However, the form must be signed by the client or authorized filing representative. BAM 210, p. 9.

A report is considered complete when all of the sections (including the signature section) on the DHS-1046 and the DHS 2240-A are answered completely and required verifications are returned by the client or client's authorized representative. BAM 210, p. 10. If an expense has changed and the client does not return proof of the expense, but all of the sections on the report are answered completely, the Department removes the expense from the appropriate data collection screen in the Department's system (Bridges) before running eligibility determination and benefit calculation (EDBC). BAM 210, p. 10.

For 12-month benefit period, the semi-annual contact report must be recorded, data collection updated and EDBC results certified in Bridges by the last day of the sixth month of the benefit period to affect benefits no later than the seventh month. BAM 210, p. 11. The contact is met by receipt of a completed DHS-1046 and required verifications. BAM 210, p. 11.

If the DHS-1046 is not logged in the Department's system (Bridges) by the 10th day of the sixth month, the Department will generate a DHS-1046A, Potential Food Assistance (FAP) Closure, to the client. BAM 210, p. 13. This reminder notice explains that the client must return the DHS-1046 and all required verifications by the last day of the month, or the case will close. BAM 210, p. 13.

If the client fails to return a complete DHS-1046 by the last day of the sixth month, the Department's system (Bridges) will automatically close the case. BAM 210, p. 13. If the client reapplies, treat it as a new application and Department's system (Bridges) will prorate the benefits. BAM 210, p. 13.

If the completed DHS-1046 and verifications are returned by the last day of the sixth month, the Department process the changes to ensure the client's benefits are available no later than 10 days after their normal issuance date in the seventh month of the benefit period. BAM 210, p. 13.

In the present case, the Department made the following arguments and/or assertions: (i) it properly mailed to Petitioner's previous address, a contact report, which was due back by August 1, 2016; (ii) the contact report was mailed to Petitioner via central print and not returned back as undeliverable from the United States Postal Service (USPS); (iii) because Petitioner did not return the contact report by the due date, it then properly mailed to Petitioner's previous address, the Notice of Potential Food Assistance (FAP) Closure (hereinafter referred to as "potential FAP closure notice"), which stated she must return the contact report or her benefits would close effective August 31, 2016; (iv) the potential FAP closure notice was mailed to Petitioner via central print and not returned back as undeliverable from the USPS; (v) the Department did not receive her contact report by the due date; thus her benefits closed effective September 1, 2016; and (vi) Petitioner reapplied for FAP benefits on September 19, 2016, and she was approved; therefore, she did not receive FAP benefits for the period of September 1, 2016 to September 18, 2016.

In response, the AHR made the following arguments and/or assertions: (i) Petitioner testified that she never received the contact report or the potential FAP closure notice; (ii) Petitioner manages her FAP benefits via MI Bridges, including her correspondence history, to see if any documents are needed to be completed and she testified that the potential FAP closure notice did not show on her correspondence history; (iii) Petitioner, though, indicated that she submitted the contact report online via Mi Bridges in June or July of 2016 (Exhibit 1, pp. 2 and 3 of her Affidavit); (iv) her previous address of [REDACTED] "notated on both forms was her proper address at the time they were sent (Exhibit A, pp. 4 and 6); (v) Petitioner did not move to the new address until October 11, 2016; (vi) Petitioner testified that she had issues in the past receiving mail; (vii) Petitioner switched caseworker's from "[REDACTED]" to [REDACTED] and she discovered this on the date of a previous administrative hearing held on August 22, 2016; (viii) following the previous administrative hearing, Petitioner testified that [REDACTED] told her that she would take care of everything and if she needed anything from her, she would give her a call; Petitioner asked if there was anything she needed to fill out, she could do there and [REDACTED] told her that she would call her if she needed any information (Exhibit 1, p. 2 of her Affidavit), and [REDACTED] never mentioned any contact report; (ix) she contacted Ms. [REDACTED] several times, but received no contact back; and (x) the AHR's argument is that Petitioner had multiple contacts with the Department in order to see if she needed to submit any document, but there was either no communication from the Department or there was no mention about any contact report that had to be completed.

In response to Petitioner's claim that she submitted the contact report via Mi Bridges, both parties, including the undersigned, reviewed Petitioner's Electronic Case File (ECF) at the Department's computer present in the hearing room. The ECF shows what documents the Department's received from the Petitioner. During the hearing, the undersigned reviewed the ECF and there was no evidence showing that Petitioner submitted the contact report generated on July 1, 2016.

Based on the foregoing information and evidence, the Department properly closed the Petitioner's FAP benefits effective September 1, 2016, in accordance with Department policy.

First, Petitioner argued that she neither received the contact report or the notice of potential FAP closure in the mail. 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). In fact, Petitioner testified that she did have issues in receiving her mail. However, the undersigned disagrees. The undersigned finds that Department provided sufficient evidence to show that it sent Petitioner the contact report and notice of potential FAP closure to her proper address at the time and that neither document came back to the Department as undeliverable mail from the USPS. As such, it is found that Petitioner failed to rebut the presumption of proper mailing.

Second, the AHR and Petitioner claimed that she had contact with [REDACTED] and asked her specifically whether she had to complete any forms and the response back from Ms. [REDACTED] was that she would call her if anything needed to be filled out. Yes, the undersigned does not doubt that there was contact between Petitioner and her caseworker. But ultimately, it is the Petitioner's responsibility to cooperate with the Department by completing any necessary forms, including the contact report, in order to determine her ongoing FAP eligibility. See BAM 105, p. 9. In fact, Petitioner's states in her own affidavit that "(I)n July 2016, I also submitted my Semi-Annual Contact Report on MyBridges account online." Exhibit 1, p. 2. However, during the hearing, a review of Petitioner's ECF found no such contact report was submitted. Even though there was contact between the Department and Petitioner, the Department properly mailed her the contact report in July 2016 and she failed to submit the document before the benefit period had ended (August 31, 2016). Because the contact report was properly mailed and Petitioner failed to submit the contact report before the end of the benefit period (August 31, 2016), the Department acted in accordance with Department policy when it closed Petitioner's FAP benefits effective September 1, 2016. See BAM 105, p. 9 and BAM 210, pp. 1-13.

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 closed Petitioner's FAP benefits effective September 1, 2016.

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

EF/tm



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

[REDACTED]
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CC: [REDACTED]
[REDACTED]