



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR



Date Mailed: November 1, 2016
MAHS Docket No.: 16-013951
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Gary Heisler

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 October 27, 2016, from Lansing, Michigan. Petitioner was represented by [REDACTED]. Petitioner appeared and testified. The Department was represented by Family Independence Specialist [REDACTED]. Department's Exhibit A, pages 1-15 was admitted into evidence. During this hearing it was determined that Petitioner has not lost any Medical Assistance (MA) coverage. The Medical Assistance (MA) portion of the hearing request is dismissed.

ISSUE

Did the Department properly end Petitioner's Food Assistance Program (FAP) on August 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 was an ongoing recipient of Food Assistance Program (FAP) benefits. Petitioner's Food Assistance Program (FAP) and Medical Assistance (MA) eligibility was due for re-determination by August 1, 2016.
2. On June 13, 2016, the Department sent a Redetermination (DHS-1010) packet to Petitioner's address of record. The packet was due back to the Department by July 12, 2016. The mail was not returned to the Department as undeliverable.

3. On July 12, 2016, the Department had not received the Redetermination (DHS-1010) packet from Petitioner. The Department sent a Notice of Missed Interview (DHHS-254) letter to Petitioner at her address of record. The letter stated that it was Petitioner's responsibility to reschedule the required Food Assistance Program (FAP) interview before July 31, 2016 or the re-determination would be denied. The mail was not returned to the Department as undeliverable.
4. On August 1, 2016, the Department had not received a Redetermination (DHS-1010) packet to use in determining Petitioner's ongoing Food Assistance Program (FAP) eligibility. Petitioner's previous certification period ended.
5. On August 19, 2016, the Department sent a Health Care Coverage Determination Notice (DHHS-1606) to Petitioner at her address of record. The mail was not returned to the Department as undeliverable.
6. On August 24, 2016, Petitioner called FIS [REDACTED] to inquire about medications she (Petitioner) needed. (See Petitioner's hearing request)
7. On September 19, 2016, Petitioner submitted this hearing request.
8. On September 22, 2016, Petitioner was approved for Food Assistance Program (FAP) benefits from September 21, 2016 ongoing.

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 presented evidence that Petitioner was sent a Redetermination (DHS-1010) packet on June 13, 2016, a Notice of Missed Interview (DHHS-254) letter on July 12, 2016, and a Health Care Coverage Determination Notice (DHHS-1606) on August 19, 2016. The Department also presented testimony that none of the items had been returned by the Postal Service. 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).

During this hearing Petitioner testified that she did not receive the June 13, 2016 Redetermination (DHS-1010) packet, the July 12, 2016 Notice of Missed Interview (DHHS-254) letter, or the August 19, 2016 Health Care Coverage Determination Notice (DHHS-1606). Petitioner testified that there are ongoing problems with mail delivery in her area due to buildings being demolished in her neighborhood.

Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). Moreover, the weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997). In evaluating the credibility and weight to be given the testimony of a witness, the fact-finder may consider the demeanor of the witness, the reasonableness of the witness's testimony, and the interest, if any, the witness may have in the outcome of the matter. *People v Wade*, 303 Mich 303 (1942), *cert den*, 318 US 783 (1943).

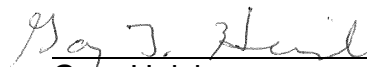
Petitioner's assertion that she did not receive any of the three mailings is not found credible. The first mailing was on June 13, 2016, the second on July 12, 2016 and the last on August 19, 2016. It is not reasonable to believe that the Postal Service was unable to provide accurate delivery of mail for the entire time period encompassing the three mailings. Neither is it statistically reasonable that the Postal Service was unable to provide accurate delivery of mail for three separate periods, which coincide directly with the three separate mailings. The presumption of receipt described above, has not been rebutted by credible evidence.

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 ended Petitioner's Food Assistance Program (FAP) on August 1, 2016.

DECISION AND ORDER

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

GH/nr



Gary Heisler
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

Authorized Hearing Rep.

[REDACTED]

DHHS

[REDACTED]

Petitioner

[REDACTED]