



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: November 3, 2016
MAHS Docket No.: 16-014618
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 November 1, 2016, from Lansing, Michigan. Petitioner appeared and testified. The Department was represented by Assistance Payments Worker [REDACTED] [REDACTED] and Assistance Payments Supervisor [REDACTED] [REDACTED]. Testimony was received from all participants. Department's Exhibit A, pages 1-11 was admitted into evidence.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) on August 31, 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) eligibility was due for re-determination by August 31, 2016.
2. On July 11, 2016, the Department sent a Redetermination (DHS-1010) packet to Petitioner's address of record. The packet was due back to the Department by August 1, 2016. The mail was not returned to the Department as undeliverable.
3. On August 1, 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 his address of record. The letter stated that it was Petitioner's responsibility to reschedule the required Food Assistance Program (FAP) interview before August 31, 2016 or the re-determination would be denied. The mail was not returned to the Department as undeliverable.

4. On August 31, 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 September 27, 2016, Petitioner submitted a hearing request.

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 July 11, 2016, and a Notice of Missed Interview (DHHS-254) letter on August 1, 2016. The Department also presented evidence which showed that no Redetermination (DHS-1010) packet was entered into Petitioner's electronic case file.

Bridges Administration Manual (BAM) 210 Redetermination/Ex Parte Review provides the following:

REDETERMINATION/RENEWAL CYCLE

All Programs

A complete redetermination/renewal is required at least every 12 months. Bridges sets the redetermination/renewal date according to benefit periods; see Eligibility Decisions in BAM 115.

FAP Only

Benefits stop at the end of the benefit period **unless** a redetermination is completed **and** a new benefit period is certified. If the client does not begin the redetermination process, allow the benefit period to expire. The redetermination

process begins when the client files a DHS-1171, Assistance Application; DHS-1010, Redetermination; DHS-1171, Filing Form; DHS-2063B, Food Assistance Benefits Redetermination Filing Record.

Petitioner testified that he received the Redetermination (DHS-1010) packet, wrote "no changes" on it, sighed it and sent it back to the Department. When asked what date he mailed the Redetermination (DHS-1010) packet, Petitioner testified that he could not remember. When asked how much time passed between receiving the packet and when he mailed it back, Petitioner testified that he was not sure.

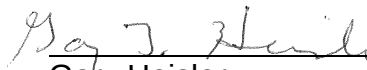
Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). Moreover, the weight and credibility of this evidence is generally 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).

Based on the totality of evidence on the record, Petitioner's assertion, that he mailed the Redetermination (DHS-1010) packet back, is not found credible. 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 Food Assistance Program (FAP) on August 31, 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

DHHS

[REDACTED]

Petitioner

[REDACTED]