



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: February 16, 2017
MAHS Docket No.: 17-000417
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 telephone hearing was held on February 9, 2017, from Detroit, Michigan. The Petitioner was present for the hearing and representative herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Family Independence Specialist; and [REDACTED] Hearings Facilitator.

ISSUE

Did the Department properly close Petitioner's Family Independence Program (FIP) benefits effective January 1, 2017?

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 FIP benefits.
2. On August 11, 2016, Petitioner applied for benefits and reported her address to be [REDACTED] (hereinafter referred to as her "first address").

3. On October 14, 2016, the Department received an online State Emergency Relief (SER) application from allegedly the Petitioner in which it was reported her address was "[REDACTED]" (hereinafter referred to as her "second address").
4. On November 4, 2016, the Department sent Petitioner a Redetermination (DHS-1010) to her second address in order to redetermine her eligibility for both Cash (FIP) and her Food Assistance Program (FAP) benefits. Exhibit A, pp. 5-12. The Redetermination was due back by December 1, 2016. Exhibit A, p. 5.
5. Petitioner did not submit a Redetermination by December 1, 2016.
6. On December 1, 2016, the Department sent Petitioner a Notice of Missed Interview (DHS-254) to her second address and it notified her that she missed her interview to redetermine her FAP benefits and it is her responsibility to reschedule the interview before January 31, 2017 or her redetermination will be denied. Exhibit A, p. 13.
7. Petitioner alleged she never received her Redetermination or the Notice of Missed Interview.
8. On January 2, 2017, Petitioner submitted her redetermination for FAP benefits and her FAP benefits were approved. Exhibit A, pp. 14-21.
9. In the redetermination, Petitioner did not report any new address. Exhibit A, pp. 14-21.
10. Petitioner did not submit a redetermination for her FIP benefits by December 31, 2016 and therefore, her FIP benefits closed effective January 1, 2017.
11. The Department failed to generate a Notice of Case Action (DHS-1605) informing Petitioner that her FIP benefits had closed.
12. On January 3, 2017, Petitioner filed a hearing request, protesting the Department's action. Exhibit A, pp. 2-3.
13. On January 4, 2017, Petitioner submitted an application for Cash Assistance benefits (FIP) and reported her first address again as where she resides. Exhibit A, pp. 22-44.
14. On January 26, 2017, Petitioner filed an Incident/Investigation Report with the Detroit Police Department reporting that she was the victim of identity theft and that she never resided at the second address after learning from the Department that someone used her name to apply for SER benefits. Exhibit 1, pp. 2-4.

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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Department of Human Services) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101-.3131.

Clients must cooperate with the local office in determining initial and ongoing eligibility. BAM 105 (October 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.

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 FIP cases, if the redetermination packet is not logged in by the negative action cut-off date of the redetermination month, the Department generates a DHS-1605, Notice of Case Action, and automatically closes the Eligibility Determination Group (EDG). BAM 210, p. 12.

In the present case, Petitioner's argues that she never received the Redetermination or the Notice of Missed Interview that was sent to her second address because she never resided there. Petitioner testified that she has always resided at her first address.

In response, the Department indicated that it previously had verification that she resided at her first address when she applied for benefits on August 11, 2016. However, the Department testified that it received an SER application from allegedly the Petitioner on October 14, 2016 and in the application, a new address was reported (her second address). Subsequently, the Department sent the Redetermination (DHS-1010) and the Notice of Missed Interview (DHS-254) to her second address, but never received a completed redetermination for her FIP benefits by the end of the benefit period (December 31, 2016). As such, the Department closed her FIP benefits effective January 1, 2017 because she failed to submit a completed redetermination. The Department testified that Petitioner did submit her FAP redetermination on January 2, 2017, but failed to report her new address. On January 4, 2017, Petitioner submitted an application for Cash Assistance benefits (FIP) and reported her current address on the application. Exhibit A, pp. 22-44. It should be noted the undersigned Administrative Law Judge (ALJ) asked the Department if a Notice of Case Action was ever generated informing Petitioner of her FIP case closure, but the Department could not locate such a notice.

In response to the Department's testimony, Petitioner testified that she never applied for the SER application that reported the second address. Petitioner testified that she lost her cell phone, which had all her information on it (i.e., access to her online Mi Bridges). Petitioner's infers from this statement that someone could have accessed her case profile and apply for benefits online because the individual had all of her information. Upon discovery from the Department that someone had applied for the SER application and reported a different address, Petitioner testified she filed a police report claiming she was the victim of identity theft on January 26, 2017. Petitioner provided a copy of the police report. Exhibit 1, pp. 2-4. In fact, Petitioner provided a credit report showing a history of her addresses and nowhere in the list does it show the address in which the redetermination was sent to. Exhibit 1, p. 1. As such, Petitioner claims that the redetermination was sent to the improper address because she was a victim of identity theft and the benefits were improperly closed.

Based on the foregoing information and evidence, the Department did not act in accordance with Department policy when it closed Petitioner's FIP benefits effective January 1, 2017.

First, it is found that Petitioner rebutted the presumption of proper mailing. 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). The undersigned ALJ finds Petitioner's testimony credible that she never received the redetermination because she never resided at the address the form was sent to due to being the victim of identity theft. Petitioner's credibility is supported by the actual police report she provided for the evidence record and a credit report showing that she never resided at the second address. Exhibit 1, pp. 1-4. As such, the evidence established that because Petitioner never received the redetermination in November 2016, she was

unable to submit the form by the due date. Because the Petitioner rebutted the presumption of proper mailing, the Department improperly closed her FIP benefits effective January 1, 2017, in accordance with Department policy. See BAM 210, pp. 1-12.

Second, policy requires that the Department generate a DHS-1605, Notice of Case Action, informing Petitioner of the FIP closure if a redetermination packet is not logged in by the negative action cut-off date of the redetermination month. BAM 210, p. 12. However, the Department failed to issue such a closure notice informing Petitioner of the case closure. Because the Department failed to issue Petitioner a closure notice, the Department did not act in accordance with Department policy when it closed her FIP benefits effective January 1, 2017. BAM 210, p. 12.

Accordingly, the Department is ordered to redetermine Petitioner's FIP eligibility (complete the redetermination process) for January 1, 2017, ongoing, for the above stated reasons.

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 did not act in accordance with Department policy when it improperly closed Petitioner's FIP benefits effective January 1, 2017.


Accordingly, the Department's FIP decision is **REVERSED**.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Redetermine Petitioner's FIP eligibility (complete the redetermination process) effective January 1, 2017, ongoing;
2. Issue supplements to Petitioner for any FIP benefits she was eligible to receive but did not from January 1, 2017, ongoing; and

3. Notify Petitioner of its decision.

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]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

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[REDACTED] [REDACTED]
[REDACTED] [REDACTED]