



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 15, 2017 7
MAHS Docket No.: 17-000751
Agency No.: [REDACTED]
[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 15, 2017, from Detroit, Michigan. The Petitioner was present for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Family Independence Manager; and [REDACTED] Eligibility Specialist.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefits effective February 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 FAP benefits.
2. On December 1, 2016, the Department sent Petitioner a Semi-Annual Contact Report (contact report) and the contact report was due back by January 1, 2017. Exhibit A, pp. 4-5.
3. Petitioner did not submit the contact report by January 1, 2017.

4. On January 10, 2017, the Department sent Petitioner a Notice of Potential Food Assistance (FAP) Closure (potential closure notice) and notified her that the Department did not receive her contact report and that her FAP benefits would close effective January 31, 2017, if the contact report is not received. Exhibit A, p. 6.
5. Petitioner failed to return her contact report by January 31, 2017.
6. Petitioner alleged she never received the contact report or potential closure notice.
7. Effective February 1, 2017, Petitioner's FAP benefits closed due to her failure to return the contact report.
8. On January 17, 2017, Petitioner filed a hearing request, protesting the Department's action. Exhibit A, p. 2.

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 (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 (January 2017), 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. 10.

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 EDDB 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 the contact report and potential closure notice to Petitioner's address; (ii) both forms were mailed to Petitioner via central print and were not returned back as undeliverable from the United States Postal Service (USPS); (iii) it did not receive her contact report by the due date; thus her benefits closed effective February 1, 2017; and

(vi) after the hearing request, the Department resent her the contact report on January 18, 2017, but still did not receive the form back.

In response, Petitioner made the following arguments and/or assertions: (i) she argued that she never received the contact report and potential closure notice; (ii) currently, she has had no issues with receiving Department correspondence, but until now; (iii) she claimed that she also did not receive other mail, including her doctor's correspondence, thus she went to her doctor on or about [REDACTED], to inquiry about her correspondence and she was informed by her doctor's office that it did send her the correspondence; (iv) she then went to her local USPS on or about January 17, 2017, to check if the post office had any of her mail, in which she was informed they did not; (v) she never received the contact report the Department stated it resent on January 18, 2017 nor was it part of the evidence record; (vi) she claimed that she ultimately received all of the documents when she was sent the Hearing Summary packet; and (vii) she acknowledged her address was the correct address on the forms.

Based on the foregoing information and evidence, the Department properly closed the Petitioner's FAP benefits effective February 1, 2017, in accordance with Department policy.

First, Petitioner argued that she neither received the contact report or the potential closure notice in the mail. In fact, Petitioner claimed that she also never received other mail at the same time, which included her doctor's correspondence. 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 this case, the undersigned Administrative Law Judge (ALJ) finds that Department provided sufficient evidence to show that it sent Petitioner the contact report and potential closure notice to her proper address at the time and that neither document came back to the Department as undeliverable mail from the USPS. Petitioner failed to provide any documented evidence showing that she did not receive the mail, i.e., a copy of her doctor's correspondence that she claimed she never received at the same time as well. As such, it is found that Petitioner failed to rebut the presumption of proper mailing.

Second, the undersigned ALJ finds that Petitioner failed to submit the contact report by the due date. Because the contact report was properly mailed and Petitioner failed to submit the contact report before the end of the benefit period (January 31, 2017), the Department acted in accordance with Department policy when it closed Petitioner's FAP benefits effective February 1, 2017. BAM 105, p. 9 and BAM 210, pp. 1-13. 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 closed Petitioner's FAP benefits effective February 1, 2017.

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

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