



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: February 21, 2017
MAHS Docket No.: 17-000852
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 [REDACTED], from Detroit, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Eligibility Specialist, and [REDACTED], Eligibility Specialist.

ISSUE

1. Did the Department properly close the Petitioner's Food Assistance Program (FAP) benefits for failure to complete the redetermination?
2. Did the Petitioner request a timely hearing regarding the denial of her application for Family Independence Program (FIP) cash assistance?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Petitioner applied for FIP cash assistance on [REDACTED], and was denied on [REDACTED].
2. On [REDACTED], the Department sent a Notice of Case Action denying the Petitioner's FIP application. The Notice was sent to the Petitioner's correct address and did not state the reason for the denial but did indicate the FIP was denied effective [REDACTED]. Exhibit A.

3. The Petitioner's hearing request to contest the denial of her FIP was not filed until [REDACTED].
4. Petitioner's hearing request was not timely filed within 90 days of the Notice of Case Action denying her FIP application.
5. The Petitioner did not request a timely hearing with regard to the Department's denial of Petitioner's [REDACTED], FIP application.
6. The Petitioner was required to complete an FAP redetermination and was sent the redetermination on [REDACTED]. The redetermination was processed on [REDACTED]; and a Verification Checklist (VCL) was sent to the Petitioner requesting verification of income. The income verification was due on [REDACTED] Exhibit D.
7. The Petitioner did not return the income verification by the due date.
8. On [REDACTED], after the due date for returning the verification of income, the Petitioner emailed the assigned Department caseworker a link to verify her income. The caseworker could not open the link without a password, which she did not have. Exhibit E.
9. The Department tried to further verify income through the work number and was unable to find the income information.
10. The Petitioner's FAP case closed [REDACTED], effective [REDACTED], when the Department did not receive income verification as the redetermination was not completed. Exhibit C.
11. The Petitioner requested a hearing on [REDACTED], protesting the Department's actions.

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.

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.

Timeliness of Hearing Request for FIP Denial

In this case, the Petitioner applied for FIP benefits and was denied by a Notice of Case Action sent to her at her correct address. In addition, the Notice clearly stated that the FIP was denied effective [REDACTED]. Exhibit A. The Petitioner's request for hearing regarding her FIP benefits must be denied as both untimely and based upon the rule that a properly addressed and mailed letter is presumed to be received. 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). In this case, the Petitioner indicated that she had no problems with her mail; thus, it is presumed the Notice was received by Petitioner.

Regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in Mich Admin Code, R 792.10101 to R 792.10137 and R 792.11001 to R 792.11020. Rule 792.11002(1) provides as follows:

An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance is denied or is not acted upon with reasonable promptness, has received notice of a suspension or reduction in benefits, or exclusion from a service program, or has experienced a failure of the agency to take into account the recipient's choice of service.

A client's request for hearing must be in writing and signed by an adult member of the eligible group, adult child, or authorized hearing representative (AHR). Department of Health and Human Services Bridges Administrative Manual (BAM) 600 (October 1, 2016), p. 2. Moreover, BAM 600, p. 6, provides that a request for hearing must be received in the Department local office within 90 days of the date of the written notice of case action.

It is determined that the hearing request filed was untimely and that the fact that the Notice did not state the reason, still did not affect the fact that the Petitioner was given Notice that FIP was denied and was advised of her hearing rights. Initially, at the hearing, the undersigned considered that the Department did not properly process the FIP denial because no reason was given; but after a review of policy, it requires that upon receipt of the Notice denying the FIP application the Petitioner had 90 days from the date of the Notice of Case Action to request a hearing. The Notice sent to the

Petitioner also contained a form advising her of her hearing rights. Exhibit A. Under these circumstances and the fact that the Notice was sent to the Petitioner at the correct address without any evidence of mail problems occasioned by Petitioner, it is determined that the Petitioner's hearing request, as regards her FIP, was untimely.

Food Assistance Closure for Failure to Complete Verification and Redetermination

In this case, the Department closed the Petitioner's FAP case because it could not determine the Petitioner's income. The Department fulfilled the requirements of Department policy when it sought verification of Petitioner's income.

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. See; **Subsequent Processing** in this item. BAM 210 (January 1, 2017), p. 3.

In this case, the Department credibly testified that when she received an email from the Petitioner on [REDACTED], she communicated by the email to the Petitioner that she could not open the email link sent to her to verify income from Petitioner's employment income after receiving the Petitioner's [REDACTED], email. In addition, the Department also spoke to Petitioner several times about her medical benefits and testified that she would also have mentioned the verifications because she would have consulted the eligibility summary during her discussions with the Petitioner. Although the Petitioner testified that she did not hear from the Department until [REDACTED], the testimony of the Department was credible that she advised the Petitioner by email that she could not open the email sent to her by the Petitioner. At that point, it was Petitioner's responsibility to provide the pay stubs or verification of income as requested. The Petitioner, as of the hearing, had not provided pay stubs; and thus, her FAP benefits closed.

In addition, prior to the closure of Petitioner's case, the Department attempted to determine income by the Work Number, which the Department is not required to do; however, the search was unsuccessful due to the Petitioner's employer not being a Work Number reporter. Based upon the policy regarding verification, the Petitioner was required to provide her pay stubs and did not do so. It is also the Petitioner's responsibility to do so timely. It is not up to the Department to obtain the verification. The Department did everything it was required to do, and the Petitioner's FAP case closed due to the Petitioner's failure to follow up and provide the requested documentation. Because no documentation of income was received, the FAP case closed because it could not be certified for a new benefit period without the income. BAM 201 and BAM 130.

Department policy found in BAM 130 requires that verifications be made timely:

FIP, SDA, Child Development and Care (CDC), FAP

Allow the client 10 calendar days (**or** other time limit specified in policy) to provide the verification that is requested.

Verifications are considered to be timely if received by the date they are due. For electronically transmitted verifications (fax, email or Mi Bridges document upload), the date of the transmission is the receipt date. Verifications that are submitted after the close of regular business hours through the drop box or by delivery of a MDHHS representative are considered to be received the next business day.

Send a negative action notice when:

- The client indicates refusal to provide a verification, **or**
- The time period given has elapsed and the client has **not** made a reasonable effort to provide it.

Exception: At redetermination, **FAP** clients have until the last day of the redetermination month **or** 10 days, whichever is later, to provide verification; see BAM 210.

When a redetermination is not completed, the benefits close automatically when certification is not completed.

The Michigan Department of Health & Human Services (MDHHS) must periodically redetermine or renew an individual's eligibility for active programs. The redetermination/renewal process includes thorough review of all eligibility factors.

FAP Only

Verifications must be provided by the end of the current benefit period **or** within 10 days after they are requested, whichever allows more time. If the tenth day falls on a weekend or holiday, the verification will not be due until the next business day.

Note: The DHS-3503, Verification Checklist, should be sent after the redetermination interview for any missing verifications allowing 10 days for their return. BAM 210, p. 16.

Note: The Work Number is **not** an automated system match which must be checked at application, redetermination, semi-annual or mid-certification contact. The client has primary responsibility for obtaining verification. However, if for example, verification of income is not available because the employer uses the

Work Number and won't provide the employment information, it is appropriate to use the Work Number. BAM 210, p. 16

FAP Only

Delays

The group loses its right to uninterrupted FAP benefits if it fails to do any of the following:

- File the FAP redetermination by the timely filing date.
- Participate in the scheduled interview.
- **Submit verifications timely, provided the requested submittal date is after the timely filing date.**

Any of these reasons can cause a delay in processing the redetermination. When the group is at fault for the delay, the redetermination must be completed within 30 days of the compliance date. BAM 210 p. 2

In conclusion, based upon the evidence presented and the testimony of the parties it is determined that the Department properly closed the Petitioner's FAP for failure to complete verification of income from employment as requested during the redetermination.

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 the Petitioner's FAP benefits for failure to verify income from employment.

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

The Petitioner's Hearing Request dated [REDACTED], regarding denial of her FIP benefits is hereby **DISMISSED** as it was untimely.

IT IS SO ORDERED

LMF/jaf



Lynn M. Ferris

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]

[REDACTED]