



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.: 17-000894
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

Did the Department properly close the Petitioner's Food Assistance Program (FAP) benefits?

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 was an ongoing recipient of FAP and was scheduled to complete a Redetermination for [REDACTED].
2. The Petitioner was sent a redetermination on [REDACTED] to the correct address for the Petitioner. The Redetermination Form also scheduled an interview for [REDACTED].
3. A Notice of Missed Interview was sent to the Petitioner on [REDACTED], giving Petitioner notice that she missed her redetermination interview and was required to reschedule the interview. The Notice was sent to the Petitioner at her correct address.

4. The Petitioner did not complete the Redetermination.
5. The Department did not receive any returned mail for the Petitioner.
6. The Petitioner's FAP benefits ended on [REDACTED], due to failure to complete the Redetermination.
7. The Petitioner received the Notice of Hearing for the hearing in this case.
8. The Petitioner requested a hearing on [REDACTED].

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.

In this case, the Petitioner claimed to have not received both the Redetermination and the Notice of Missed Interview. Both the Redetermination and the Notice of Missed Interview were sent to the Petitioner at her correct address, and the Department did not receive any returned mail. The Petitioner testified that she did receive the Notice of Hearing for the hearing in this case. The Department closed the Petitioner's FAP case when no completed Redetermination was received, and the Petitioner failed to reschedule her redetermination missed interview.

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 201 (January 1, 2017), p. 3.

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, two pieces of mail were sent to the Petitioner to the correct address with no

returned mail received back from the Department; and the Notice of Hearing was received. Although the Petitioner said sometimes her mail was received by her neighbors, she gave no further testimony of when that may have occurred. In addition, the Petitioner did not request a hearing until [REDACTED] even though her FAP benefits closed in [REDACTED].

Under these circumstances, it is determined that the Department correctly closed the Petitioner's FAP benefits for failure to complete the redetermination; and the facts do not overcome the presumption that mail properly addressed and mailed is presumed received.

The Petitioner may reapply for FAP at any time.

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 complete the Redetermination.

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

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]