



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: March 20, 2017
MAHS Docket No.: 17-001934
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 March 15, 2017, from Lansing, Michigan. Petitioner was represented by herself. The Department was represented by Eligibility Specialist [REDACTED] [REDACTED] Department's Exhibit A, pages 1-15 was admitted into evidence.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) on November 30, 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. Her eligibility was due for redetermination by November 30, 2016.
2. On October 10, 2016, a Redetermination (DHS-1010) form was sent to Petitioner at [REDACTED]. The Redetermination (DHS-1010) and supporting proofs were due back on November 9, 2016.
3. On October 25, 2016, the Redetermination (DHS-1010) was returned to the Department by the Post Office as not deliverable at [REDACTED] and unable to forward.

4. On November 9, 2016, the Department had not received the Redetermination (DHS-1010) and supporting proofs. A Notice of Missed Interview (DHS-254) was sent to Petitioner at [REDACTED].
5. On November 30, 2016, Petitioner's Food Assistance Program (FAP) closed.
6. On January 3, 2017, Petitioner submitted an application for Food Assistance Program (FAP) benefits. On the application Respondent gave her address as [REDACTED].
7. On February 9, 2017, Petitioner submitted this 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 facts of this case clearly show that the October 10, 2016, Redetermination (DHS-1010) was not received by Petitioner. The evidence showing the Redetermination (DHS-1010) was returned as undeliverable establishes that Petitioner did not receive notice of the requirements to re-determine her Food Assistance Program (FAP) eligibility. Determination of which party is responsible for that failure of notice, is the key to affirming or reversing the Department's action.

During this hearing Petitioner testified that she has not lived at [REDACTED] for 6 or 7 years. Eligibility Specialist [REDACTED] testified that: she has been Petitioner's case worker for a couple of years; this is the second redetermination for Petitioner since she became the case worker; and that there is no record of an address change being reported.

Petitioner's assertions indicate the reason she did not receive the Redetermination (DHS-1010) is that the Department sent it to an outdated address. The Department's position is that the Redetermination (DHS-1010) was sent to the last address of record Petitioner provided them with and the reason Petitioner did not receive it was because she did not report a change of address from [REDACTED]. Department policy places the burden of reporting an address change on the Clients.

In this Administrative Law Hearing, the Department has the initial burden of going forward with evidence. The Department met that burden by showing that they complied with their policies in processing Petitioner's Food Assistance Program (FAP) eligibility redetermination. At that point the burden shifts to Petitioner who has the opportunity to present rebutting evidence (evidence given to explain, repel, counteract or disprove facts given in evidence by the adverse party) to the Department's Prima Facie Case (such as will suffice until contradicted and overcome by other evidence).

Petitioner presented verbal testimony that she had not received the Redetermination (DHS-1010) because she had not resided at the address it was sent to for several years. However, Petitioner's verbal testimony that she has not lived at [REDACTED] for 6 or 7 years, does not rebut the Department's evidence that [REDACTED] is the most recent address of record which Petitioner reported to them. Both parties have access to previous correspondence sent to Petitioner by the Department which might provide direct evidence of whether [REDACTED] is the most recent address of record which Petitioner reported to the Department. Neither party presented any evidence of that nature.

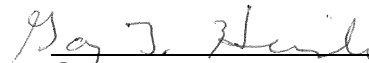
The evidence in this record consists of a Prima Facie Case from the Department including evidence that the Redetermination (DHS-1010) was sent to the most recent address of record which Petitioner reported to them. Petitioner failed to rebut the Department's evidence that [REDACTED] is the most recent address of record which Petitioner reported to them.

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 November 30, 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]