



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

SHELLY EDGERTON
DIRECTOR



Date Mailed: May 1, 2017
MAHS Docket No.: 17-003525
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Gary Heisler

HEARING DECISION

Petitioner filed a request for a hearing, under a United States District Court Order issued on January 9, 2015, which allowed the pursuit of potential benefit recovery related to a Michigan Department of Health and Human Services (Department) criminal justice disqualification. This matter is now before the undersigned Administrative Law Judge pursuant to the United States District Court Order.

After due notice, a 3-way telephone hearing was held on March 14, 2017, from Lansing, Michigan. Petitioner appeared on their own behalf. Eligibility Specialist [REDACTED] [REDACTED] appeared on behalf of the Department.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefits beginning August 1, 2014?

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.
2. On November 1, 2013, Petitioner was mailed a Mid-Certification Contact Notice (DHS-2240-A) for review of her Food Assistance Program (FAP) and Medical Assistance (MA) benefits. The notice was sent to Petitioner's last known address on [REDACTED]. The form and any proofs were due back on December 1, 2013.
3. On July 14, 2014, the Department had not received the Mid-Certification Contact Notice (DHS-2240-A). Petitioner was sent a Notice of Case Action (DHS-1605)

which stated her Food Assistance Program (FAP) would close beginning August 1, 2014. The notice stated that the reason for the action was "FAP Certification Shortened due to non receipt of DHS 2240A." The notice was sent to Petitioner at the [REDACTED] address.

4. On March 16, 2017, Petitioner filed a Barry v. Lyon Request for Hearing Form, after receiving a notice of denial of back Food Assistance Program (FAP) benefit payments under the Barry v. Lyon lawsuit.

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.

This hearing has been convened under the direction of a United States District Court Order. The purpose of this hearing is to determine if the Department's closure of Petitioner's Food Assistance Program (FAP) was a valid action, for a reason other than fugitive felon status.

During this hearing Petitioner testified that she never received the form the Department is talking about. Petitioner also testified that she has not lived on [REDACTED] since January of 2014. Petitioner was residing at the address the Mid-Certification Contact Notice (DHS-2240-A) was mailed to. Petitioner also testified that she did receive the July 14, 2014 Notice of Case Action (DHS-1605) saying her Food Assistance Program (FAP) was closing, which was mailed to the [REDACTED] address. Petitioner was specifically asked if she filed for a hearing when she received the July 14, 2014 notice, and testified that she did not request a hearing about it.

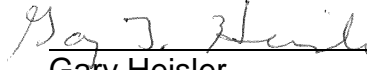
The proper mailing and addressing of a letter creates a presumption of receipt. That presumption may be rebutted by evidence. *Stacey v Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976). Petitioner has presented no evidence which rebuts the presumption of receipt.

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) benefits beginning August 1, 2014.

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



Petitioner

