



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: April 3, 2017
MAHS Docket No.: 17-002527
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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. After due notice, telephone hearing was held on March 30, 2017, from Lansing, Michigan. The Petitioner was represented by herself. The Department was represented by [REDACTED] (Eligibility Specialist), and [REDACTED] (Office of Child Support).

ISSUE

Did the Department of Health and Human Services (Department) properly sanction Petitioner's Food Assistance Program (FAP) benefits for noncooperation with the Office of Child Support?

FINDINGS OF FACT

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

1. On January 5, 2017, the Department requested that Petitioner submit to an interview and provide information necessary to identify and locate the absent parent of her child. Exhibit E.
2. On January 15, 2017, the Department sent Petitioner a final request to provide information necessary to identify and locate the absent parent of her child. Exhibit E.
3. Petitioner was an ongoing Food Assistance Program (FAP) recipient as a group of five with a \$ [REDACTED] monthly allotment of benefits as of February 1, 2017. Exhibit A.
4. On January 23, 2017, the Department notified Petitioner that she was considered

to be noncompliant with the Department's efforts to identify and locate the absent parent of her child. Exhibit E.

5. On February 15, 2017, the Department notified Petitioner that it would reduce her Food Assistance Program (FAP) benefits to a \$ [REDACTED] monthly allotment effective March 1, 2017. Exhibit D.
6. Petitioner was an ongoing Food Assistance Program (FAP) recipient as a group of four with a \$ [REDACTED] monthly allotment of benefits as of March 1, 2017. Exhibit C.
7. On February 21, 2017, the Department received Petitioner's request for a hearing protesting the reduction of the monthly allotment of Food Assistance Program (FAP) benefit due to the noncooperation sanction placed on her case by the Office of Child Support.

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.

Families are strengthened when children's needs are met. Parents have a responsibility to meet their children's needs by providing support and/or cooperating with the department, including the Office of Child Support (OCS), the Friend of the Court (FOC) and the prosecuting attorney to establish paternity and/or obtain support from an absent parent. The custodial parent or alternative caretaker of children must comply with all requests for action or information needed to establish paternity and/or obtain child support on behalf of children for whom they receive assistance, unless a claim of good cause for not cooperating has been granted or is pending. Failure to cooperate without good cause results in disqualification. Disqualification includes member removal, as well as denial or closure of program benefits. Department of Human Services Bridges Eligibility Manual (BEM) 255 (January 1, 2017), pp 1-2.

Petitioner was an ongoing FAP recipient as a group of 5 receiving a \$ [REDACTED] monthly allotment of benefits on January 5, 2017, when the Department requested that she submit to an interview and provide information necessary to identify and locate the absent parent of her child. Petitioner did not respond to the Department's request and on January 15, 2017, the Department sent Petitioner a final request to provide information necessary to identify and locate the absent parent of her child. On January

23, 2017, the Department notified Petitioner that it considered her to be noncooperative with the Office of Child Support.

Petitioner does not dispute that she did not submit to an interview or provide the Department with the requested information. Petitioner testified that the January 5, 2017, notice and the January 23, 2017, notice of noncooperation all arrived in the mail on the same day.

While a presumption arises that a letter with a proper address and postage will, when placed in the mail be delivered by the postal service, this presumption can be rebutted with evidence that the letter was not received. If such evidence is presented, as it was here, then a question of fact arises regarding whether the letter was received. [Citations omitted.] *Goodyear Tire & Rubber Co v Roseville*, 468 Mich 947; 664 NW2d 751 (2003).


In this case, the Department presented substantial evidence that it made written requests to Petitioner to provide information necessary to identify and locate the absent parent of her child, and the Petitioner failed to rebut the presumption of receipt. Petitioner had a duty to provide the information requested by the Department in a timely manner, and the Department was acting in accordance with BEM 255 when Petitioner failed to make a reasonable effort to comply with the Department's requests in a timely manner.

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 reduced Petitioner's Food Assistance Program (FAP) benefits after placing sanctioning her benefits for noncooperation with the Office of Child Support.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.

KS/nr



Kevin Scully
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]

Department Representative

[Redacted]

Petitioner

[Redacted]