



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]
Date Mailed: April 13, 2017
MAHS Docket No.: 17-003249
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun

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 April 5, 2017, from Detroit, Michigan. The Petitioner appeared for the hearing and represented himself. The Department of Health and Human Services (Department) was represented by Gwendolyn Wilson, Family Independence Specialist.

ISSUE

Did the Department properly deny Petitioner's Family Independence Program (FIP), Food Assistance Program (FAP), and State Emergency Relief (SER) 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. In or around [REDACTED] 2017, Petitioner applied for FIP benefits.
2. On February 10, 2017, the Department sent Petitioner a Verification Checklist (VCL) instructing him to submit proof of school attendance for his son and proof of home rent to the Department by February 21, 2017. (Exhibit A, pp. 5-8)
3. On February 24, 2017, the Department sent Petitioner a Notice of Case Action advising him that effective March 1, 2017, ongoing, his FIP benefits were denied on the basis that he failed to return verification of school attendance. (Exhibit A, pp. 9-13)

4. On [REDACTED], 2017, Petitioner requested a hearing disputing the Department's actions with respect to his FIP, FAP and SER cases.
5. Petitioner verbally withdrew his hearing request regarding the FAP and SER program.

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).

FAP/SER

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 State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Department of Human Services) pursuant to MCL 400.10 and Mich Admin Code, R 400.7001-.7049.

The hearing was requested to dispute the Department's action taken with respect to Petitioner's FAP and SER benefits. Shortly after commencement of the hearing, Petitioner testified that that he now understood the actions taken by the Department and did not wish to proceed with the hearing. Petitioner stated that the issue has been corrected and confirmed that no promises were made in exchange for his withdrawal. The Request for Hearing was withdrawn. The Department agreed to the dismissal of the hearing request. Pursuant to the withdrawal of the hearing request filed in this matter, the Request for Hearing regarding FAP and SER is, hereby, **DISMISSED**.

FIP

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.

Additionally, verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (January 2017), p.1. To

request verification of information, the Department sends a verification checklist (VCL) which tells the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. Although the client must obtain the required verification, the Department must assist if a client needs and requests help. If neither the client nor the Department can obtain the verification despite a reasonable effort, the Department is to use the best available information; and if no evidence is available, the Department is to use its best judgment. BAM 130, p. 3.

With respect to FIP cases, clients are given 10 calendar days to provide the verifications requested by the Department. Verifications are considered to be timely if received by the date they are due. BAM 130, pp.7-8. The Department sends a negative action notice when the client indicates a refusal to provide a verification or the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130, pp. 7-8.

In this case, the Department testified that because Petitioner did not submit verification of school attendance for his son, it sent him a Notice of Case Action dated February 24, 2017, advising of the denial of FIP benefits. At the hearing, Petitioner testified that he did not return the school attendance verification because he did not receive the VCL or the Verification of Student Information form dated February 10, 2017, which instructed him to provide the requested information.

The proper mailing and addressing of a letter creates a presumption of receipt. That presumption, however, 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). A review of the VCL and Verification of Student Information form indicate that they were sent to Petitioner's confirmed mailing address. However, Petitioner testified that he has had problems with receiving mail. Petitioner stated that when he found out he did not receive the VCL, he went to the Post Office and discovered that his mail was being held. Petitioner provided copies of envelopes that were sent to him from the Department and which had been held at the Post Office. Petitioner stated he retrieved them from the Post Office and that they contained an unable to forward sticker. (Exhibit 1). The evidence established that the Department had received mail that was sent to Petitioner from the Department returned from the Post Office as undeliverable with respect to Petitioner's FAP case. (Exhibit A, pp. 18). Thus, the Department was aware of Petitioner's problems with receiving mail. As such, Petitioner has presented sufficient evidence to rebut the presumption that he received the VCL. Therefore, the Department failed to establish that it properly denied Petitioner's FIP case on the basis that he failed to verify requested information.

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 did not act in accordance with Department policy when it denied Petitioner's FIP application.

Accordingly, the hearing request with respect to FAP and SER is **DISMISSED** and the Department's FIP decision is **REVERSED**.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Register and process Petitioner's January 2017 FIP application to determine his eligibility for FIP benefits from the application date, ongoing;
2. Issue supplements to Petitioner for any FIP benefits that he was eligible to receive but did not from the application date, ongoing, in accordance with Department policy; and
3. Notify Petitioner in writing of its decision



ZB/tlf

Zainab A. Baydoun

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

Via Email:

DHHS Hearings Coordinator – 31 – 1843
BSC4 Hearing Decisions
G. Vail
D. Sweeney
MAHS

Petitioner – Via First-Class Mail:

[REDACTED]
[REDACTED]
[REDACTED]
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