



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: February 15, 2018
MAHS Docket No.: 18-000229
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 February 7, 2018, from [REDACTED] Michigan. The Petitioner represented herself. The Department was represented by [REDACTED]

ISSUE

Did the Department of Health and Human Services (Department) properly deny Petitioner's application for 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. On November 29, 2017, the Department received Petitioner's application for Food Assistance Program (FAP) benefits. Exhibit A, pp 13-24.
2. Petitioner reported to the Department on November 29, 2017, that her current address is [REDACTED] Exhibit A, p 15.
3. On November 30, 2017, the Department sent Petitioner an Appointment Notice (DHS-170) notifying her of a required appointment on December 7, 2017. Exhibit A, p 25.
4. On December 7, 2017, the Department sent Petitioner a Notice of Missed Interview (DHS-254). Exhibit A, p 26.
5. On January 2, 2018, the Department notified Petitioner that her November 29, 2017, application for Food Assistance Program (FAP) benefits had been denied. Exhibit A, pp 27-28.

6. On January 5, 2018, the Department received Petitioner's request for a hearing protesting the denial of her Food Assistance Program (FAP) application. Exhibit A, p 2.

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 purpose of the interview is to explain program requirements to the applicant and to gather information for determining the group's eligibility. An interview is required before denying assistance even if it is clear from the application or other sources that the group is ineligible. The Department will not deny the application if the client has not participated in a scheduled initial interview until the 30th day after the application date even if he/she has returned all verifications. If clients miss an interview appointment, the Department will send a DHS-254, Notice of Missed Interview, advising them that it is the clients' responsibility to request another interview date. Department of Health and Human Services Bridges Administrative Manual (BAM) 115 (January 1, 2018), pp 18-25.

On November 29, 2017, the Department received Petitioner's application for FAP benefits. When Petitioner did not attend a required interview on [REDACTED], the Department notified her that it was her responsibility to reschedule the interview by sending her a Notice of Missed Interview (DHS-254). When Petitioner did not reschedule the required interview, the Department denied her application on January 2, 2018, as required by BAM 115.

Respondent testified that she did not receive the notice of interview in time to participate in the interview.

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 sent Petitioner a timely Appointment Notice (DHS-170) to her correct mailing address of record as reported on her application for assistance and the Petitioner failed to rebut 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 denied Petitioner's Food Assistance Program (FAP) application for failing to attend or reschedule her required eligibility interview.

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]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Petitioner

[REDACTED]