



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: April 9, 2018
MAHS Docket No.: 18-002195
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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; 42 CFR 438.400 to 438.424; 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 4, 2018, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], specialist.

ISSUE

The issue is whether MDHHS properly terminated Petitioner's Food Assistance Program (FAP) eligibility.

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 FAP benefit recipient.
2. Due to homelessness, Petitioner's reported mailing address (with MDHHS) was a post office box which she shared with another person.
3. On September 9, 2017, MDHHS mailed Petitioner a Notice of Case Action concerning ongoing FAP eligibility; the document was later returned to MDHHS by the United States Postal Service (USPS) as undeliverable.
4. On November 9, 2017, MDHHS mailed Petitioner a Verification Checklist (Exhibit A, pp. 1-2) requesting contact information from Petitioner; the document was later returned to MDHHS by the USPS as undeliverable.

5. On January 11, 2018, MDHHS mailed Petitioner a Notice of Case Action (Exhibit A, pp. 3-4) informing Petitioner of a termination of FAP benefits effective February 2018.
6. On February 23, 2018, Petitioner requested a hearing to dispute the termination of FAP benefits.

CONCLUSIONS OF LAW

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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute a termination of FAP benefits effective February 2018. MDHHS presented a Notice of Case Action (Exhibit A, pp. 3-4) dated January 11, 2018, which stated that Petitioner's FAP eligibility stopped due to Petitioner's failure to return "Verification of Unable to locate household".

[For all programs, MDHHS is to tell...] the client what verification is required, how to obtain it, and the due date...¹ Use the DHS-3503, Verification Checklist (VCL), to request verification.² Allow the client 10 calendar days (or other time limit specified in policy) to provide the verification that is requested.³ Send a negative action notice when:

- The client indicates refusal to provide a verification, or
- The time period given has elapsed and the client has not made a reasonable effort to provide it.⁴

MDHHS credibly testified that a Notice of Case Action sent to Petitioner on September 9, 2017, was later returned as undeliverable. The returned mail appeared to prompt MDHHS to send Petitioner a VCL on November 9, 2017 which requested Petitioner's current address or phone number. MDHHS testimony indicated that the VCL was returned on December 7, 2017, as undeliverable.

The evidence established that MDHHS met the procedural requirements of BAM 130 in terminating Petitioner's FAP eligibility. For a benefit closure based on a client's failure to verify information to be valid, MDHHS must also establish that the basis for verification was valid.

¹ BAM 130 (April 2017) p. 3

² Id.

³ Id., p. 7

⁴ Id.

The notice of FAP termination and case summary read by MDHHS indicated BEM 220 as the policy chapter justifying closure. The policies of BEM 220 do not allow MDHHS to terminate Petitioner's benefit eligibility.

[For FAP benefits, a lack] of a permanent dwelling or fixed mailing address does not affect an individual's state residence status.⁵ Assistance cannot be denied solely because the individual has no permanent dwelling or fixed address.⁶

[For FAP benefits, MDHHS is to] verify that the individual lives in the area your office serves.⁷ However, do not deny benefits to an individual with no permanent address (e.g., new arrival, migrant, homeless) solely for lack of a verified address.⁸

MDHHS has a legitimate interest in verifying a client's residential address or state residency. Neither appeared to be at issue in the present case.

The mail sent to Petitioner and returned to MDHHS as undeliverable was sent to a post office box. A post office box is not a person's residence. No inference can be made concerning a client's residency from returned mail sent to a post office box. MDHHS had no basis to require Petitioner to verify her current phone number because it is not a requirement for eligibility. MDHHS had no basis to require Petitioner to verify her residential address because unreturned mail sent to a post office box does not signal a change in residence.

Petitioner credibly testified that she is homeless. Petitioner further testified that due to her lack of residence, she shares a post office box with someone else. Petitioner presented a letter (Exhibit 1) from the USPS which stated that Petitioner "is currently receiving mail" at the same post office box address that previously resulted in undeliverable mail. Petitioner's testimony was consistent with an unchanged residence.

There are occasions when undeliverable mail can justify case closure. The present case's circumstances are not such an occasion. It is found that MDHHS improperly terminated Petitioner's FAP eligibility.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly terminated Petitioner's FAP eligibility. It is ordered that MDHHS begin to perform the following actions within 10 days of the date of mailing of this decision:

- (1) Reinstate Petitioner's FAP eligibility effective February 2018; and
- (2) Initiate a supplement for any FAP benefits improperly not issued.

⁵ BEM 220 (January 2016), p. 4


⁶ Id.

⁷ Id. p 6

⁸ Id.

The actions taken by MDHHS are **REVERSED**.

CG/



Christian Gardocki
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]

Petitioner

[REDACTED]
[REDACTED]
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