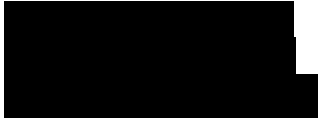




RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR



Date Mailed: June 8, 2018
MAHS Docket No.: 18-004267
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

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 May 29, 2018, from Lansing, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Crystal Cugic-Spicer, Assistance Payments Supervisor and Alexis Ewing, Eligibility Specialist.

ISSUE

Did the Department properly determine the Petitioner's eligibility for the Food Assistance Program (FAP)?

FINDINGS OF FACT

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

1. The Petitioner was a recipient of FAP benefits with a redetermination due by February 2018.
2. On January 4, 2018, the Department sent the Petitioner a Redetermination Application, DHS 1010, that was due February 5, 2018 for a telephone appointment at 8:45 a.m. at [REDACTED]. Department Exhibit 1, pgs. 4-10.
3. On February 5, 2018, the Department Caseworker sent the Petitioner a Notice of Missed Interview, DHS 254, stating that she had missed scheduled interview for FAP redetermination and that it was her responsibility to reschedule the interview

before February 28, 2018 or your redetermination application will be denied at [REDACTED]. Department Exhibit 1, pgs. 4-10.

4. On February 16, 2018, the Department Caseworker sent the Petitioner a Health Care Coverage Determination Notice, DHS 1606, that her MA was closed effective March 1, 2018 because she failed to return the redetermination form mailed so her continued eligibility for MA could not be determined at [REDACTED]. Department Exhibit 1, pgs. 12-15.
5. On February 23, 2018, the Petitioner requested a hearing, contesting the Department's negative action.
6. On March 22, 2018, a Notice of Hearing was sent for a hearing on April 4, 2018. Department Exhibit 1, pg. 2.
7. On April 5, 2018, an Order of Dismissal was sent to the Petitioner because she failed to appear for her hearing on April 4, 2018 at 3:00 p.m., as a result, her hearing was dismissed to [REDACTED]. Department Exhibit 1, pg. 3.
8. On April 20, 2018, the Petitioner requested a second hearing request after receiving the Order of Dismissal stating that she never received the Notice of Hearing sent to the same address of [REDACTED].

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.

In this case, the Petitioner stated that she did not receive a Notice of Hearing but received the Notice of Dismissal that were sent to the same address of [REDACTED]. This hearing was scheduled as a new hearing, but it should not have been scheduled for hearing because she already had a scheduled hearing and failed to appear.

The Petitioner also testified that she submitted the redetermination form in February 2018 and in March 2018 through the mail. The Department did not receive the

redetermination form until it was hand delivered by the Petitioner's sister in April 2018, which was treated as a new application since her FAP benefits expired on February 28, 2018 and her MA case was closed on March 1, 2018. The Department did not receive the form and the Petitioner did not receive any return mail.

The Petitioner was aware through communication with the Department Caseworker that the form was not received, but she chose to keep mailing it. Under the circumstances in the interest of time, she could have faxed it or emailed it since it had been previously mailed, but not received. In addition, the Petitioner could have had the redetermination form hand delivered to the local office like she did in April 2018. The Department cannot process a redetermination form that they did not receive. The responsibility is on the Petitioner to get the redetermination form to the Department by the due date and before the case expires for FAP and the MA case to also close. BAM 210.

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 determined that since the Petitioner did not submit her redetermination form that her FAP benefits expired on February 28, 2018 and MA case closed on March 1, 2018 because continued eligibility for MA could not be determined.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.



CF/nr

Carmen G. Fahie
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) 763-0155; 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

Lori Duda
30755 Montpelier Drive
Madison Heights, MI
48071

Oakland 2 County DHHS- via electronic
mail

BSC4- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

Petitioner

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