



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR



Date Mailed: June 27, 2018
MAHS Docket No.: 18-005099
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, a telephone hearing was held on June 20, 2018, from Lansing, Michigan. Petitioner represented herself. The Department of Health and Human Services was represented by Elizabeth Ahrens and Candace Baker.

ISSUE

Did the Department of Health and Human Services (Department) properly determine Petitioner's eligibility 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 August 17, 2017, the Department received Petitioner's application for State Emergency Relief (SER) benefits requesting assistance to avoid eviction. Exhibit A, pp 17-19.
2. On March 1, 2018, the Department sent Petitioner a Mid-Certification Contact Notice (DHS-2240-A) at her mailing address of record. Exhibit A, pp 5-7.
3. On April 10, 2018, the Department sent Petitioner a Notice of Potential Food Assistance (FAP) Closure (DHS-2240-B). Exhibit A, p 8.
4. On May 14, 2018, the Department received Petitioner's application for Food Assistance Program (FAP) benefits. Exhibit A, pp 9-10.

5. On her May 14, 2018, application for assistance, Petitioner reported new residence. Exhibit A, p 10.
6. On May 16, 2018, the Department notified Petitioner that she was approved for Food Assistance Program (FAP) benefits with a \$94 monthly allotment of benefits, which was a reduction from her previous allotment. Exhibit A, pp 11-13.
7. On May 16, 2018, the Department sent Petitioner a Verification Checklist (DHS-3503) requesting verification of her housing expenses by May 29, 2018. Exhibit A, pp 14-15.
8. On May 14, 2018, the Department received Petitioner's request for a hearing protesting the level of Food Assistance Program (FAP) benefits she is receiving. Exhibit A, pp 2-3.

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.

Clients must cooperate with the local office in determining initial and ongoing eligibility and this includes the completion of necessary forms. Department of Human Services Bridges Assistance Manual (BAM) 105 (January 1, 2018), p 8.

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level when it is required by policy, required as a local office option, or information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. The Department uses documents, collateral contacts, or home calls to verify information. A collateral contact is a direct contact with a person, organization, or agency to verify information from the client. When documentation is not available, or clarification is needed, collateral contact may be necessary. Department of Human Services Bridges Assistance Manual (BAM) 130 (April 1, 2017), pp 1-10.

On March 1, 2018, the Department sent Petitioner a Mid-Certification Contact Notice (DHS-2240-A) to her mailing address of record. When this form was not returned, the Department notified Petitioner that her FAP benefits would close effective May 1, 2018.

Petitioner argued that the Department was aware that she was not living at the address that the Mid-Certification Contact Notice was sent to. Petitioner had applied for State Emergency Relief (SER) benefits on August 17, 2017, which may have put the Department aware of her unstable housing circumstances, but no evidence was presented that Petitioner had reported moving to a new home.

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).

Petitioner failed to rebut the presumption of receipt of the Mid-Certification Contact Report, and the Department was acting in accordance with policy when it closed her FAP benefits as of May 1, 2018.

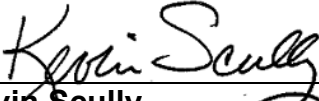
On May 14, 2018, the Department received Petitioner's application for FAP benefits where she reported her new residence to the Department. The Department approved Petitioner's FAP application with prorated benefits for May of 2018, as directed by BEM 556. Prorated FAP benefits are automatically determined by multiplying the monthly benefits by the number of days remaining in the month by the number of days remaining in the month including the application date.

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 Petitioner's eligibility for Food Assistance Program (FAP) benefits for May of 2018.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.

KS/hb



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) 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

Raina Nichols
22 Center Street
Ypsilanti, MI 48198

Washtenaw County (District 20), DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

[REDACTED]