



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: August 7, 2018
MAHS Docket No.: 18-006768
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

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 August 1, 2018, from Lansing, Michigan. Petitioner personally appeared and testified.

The Department of Health and Human Services (Department) was represented by Hearing Facilitator Pamela Herman and Eligibility Specialist Andrea Byrens. Ms. Byrens and Ms. Herman testified on behalf of the Department. The Department submitted 40 exhibits which were admitted into evidence. The record was closed at the conclusion of the hearing.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) case?

FINDINGS OF FACT

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

1. On April 30, 2018, Petitioner submitted her FAP redetermination to the Department without check stubs or a recent bank statement. [Dept Exh.1-8; Hearing Summary].
2. On May 11, 2018, the Department mailed Petitioner a Verification Checklist to her current address in [REDACTED] Michigan, with a due date of May 21, 2018. [Dept Exh. 10-11].

3. Petitioner testified that she never received the Verification Checklist. [Testimony of [REDACTED] [REDACTED]
4. On June 27, 2018, the Department mailed Petitioner a Notice of Case Action informing her that her FAP benefits from December 1, 2017 through March 31, 2018 were \$310.00 and her FAP case closed June 1, 2018 ongoing. [Dept Exh. 14-17].
5. On June 27, 2018, Petitioner submitted a Request for Hearing to the Department and spoke with Eligibility Specialist Byrens. [Hearing Request; Testimony of Andrea Byrens, 8/1/2018].
6. On June 29, 2018, Petitioner submitted the requested verifications. [Dept Exh. 21].
7. On July 10, 2018, the Department prepared a FAP budget for Petitioner for the benefit period of April 1, 2018 through May 1, 2018, showing Petitioner was eligible for \$310.00 per month in FAP benefits. [Dept Exh. 25-27].
8. On July 10, 2018, the Department prepared a FAP budge for Petitioner for the June 1, 2018 through May 31, 2019 certification period showing she was eligible for \$219.00 a month in FAP benefits. [Dept Exh. 28-30].
9. Petitioner did not contest the amount of earned income the Department used in determining Petitioner's FAP eligibility. [Testimony of [REDACTED] [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.

First, during the hearing, Petitioner testified that she called the Department numerous times and left multiple emails, but the workers never returned her calls.

Regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in Mich Admin Code, R 792.10101 to R 792.10137 and R 792.11001 to R 792.11020. Rule 792.11002(3) provides as follows:

A complaint as to alleged misconduct or mistreatment by a state employee shall not be considered through the administrative hearing process but shall be referred to the agency customer service unit.

Therefore, this Administrative Law Judge is unable to address Petitioner's complaints regarding her worker.

Second, Petitioner testified that she never received the Verification Checklist, otherwise she would have submitted the requested documentation sooner.

However, according to the Michigan Supreme Court, 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. *Goodyear Tire & Rubber Co v Roseville*, 468 Mich 947; 664 NW2d 751 (2003).

The Department did not have any information in Petitioner's file indicating that the Verification Checklist was returned as undeliverable. The proper mailing and addressing of a letter creates a presumption of receipt. That presumption 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). Petitioner failed to provide credible, material, and substantial evidence to rebut the presumption of receipt as the Department mailed all correspondence to Petitioner's address of record.

In this case, the Department mailed Petitioner a Verification Checklist on May 11, 2018. The requested verifications were due on May 21, 2018. Petitioner failed to return the requested verifications and a Notice of Case Action was mailed on June 27, 2018, notifying Petitioner that her FAP case was closing.

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 closed Petitioner's FAP case for failure to timely submit the requested verifications.

DECISION AND ORDER

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

VLA/nr



Vicki L. Armstrong
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

Carisa Drake
190 East Michigan
Battle Creek, MI
49016

Calhoun County DHHS- via electronic mail

BSC3- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

Petitioner

[REDACTED]
[REDACTED], MI
[REDACTED]