



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
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Date Mailed: February 7, 2019
MAHS Docket No.: 19-000218
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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 February 7, 2019, from Detroit, Michigan. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Aundrea Jones, Hearings Facilitator.

ISSUE

Did the Department properly close Petitioner's 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. Petitioner was an ongoing FAP recipient.
2. On November 26, 2018, the Department received Petitioner's completed Redetermination listing no assets.
3. On December 12, 2018, during the Redetermination month and based upon previous case information and the interview, the Department mailed Petitioner a Verification Checklist (VCL) requesting proof of [REDACTED] ([REDACTED] [REDACTED] accounts ending in 8951 and 7562, a [REDACTED] ([REDACTED] account ending in 9959, a [REDACTED] ([REDACTED] account, and a statement from the landlord [REDACTED] about the amount of rent with all proofs due by December 26, 2018.

4. On December 27, 2018, the Department issued a Notice of Case Action to Petitioner closing his FAP benefits because he had failed to return the requested verifications to the Department by December 26, 2018.
5. On January 3, 2019, the Department received Petitioner's Request for Hearing disputing the closure of his FAP benefits as well as copies of his [REDACTED] accounts information.
6. Petitioner submitted proof of his accounts with [REDACTED] and [REDACTED] about one week prior to the hearing in this case.
7. At the hearing, Petitioner also attempted to dispute the closure of his Medical Assistance (MA) Program benefits.

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).

Medical Assistance (MA) Program

The MA program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

At the hearing, Petitioner attempted to dispute the closure of his MA benefits in addition to the closure of his FAP benefits. A review of Petitioner's Request for Hearing shows that Petitioner only checked the box to dispute the amount of benefits on his Bridge Card, in other words, his FAP benefits. Petitioner did not provide any explanation or detailed information about his request and did not check the boxes to dispute MA benefits. The only other information provided by Petitioner was requests for accommodation based on his disabilities for purposes of the hearing. Therefore, since Petitioner did not request a hearing for MA benefits, no evidence was taken regarding the MA program; and no decision will be made regarding any actions taken by the Department for Petitioner's MA benefits.

Food Assistance Program (FAP)

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 Department closed Petitioner's FAP case for failure to provide proof of his checking and savings accounts as listed on the VCL. The only proofs received by the Department from Petitioner were received on the day Petitioner submitted his hearing request and one week prior to the hearing. These documents were well beyond the due date listed on the VCL.

Policy provides that the Department usually requests verifications at application and redetermination. BAM 130 (April 2017), p. 1. Petitioner was undergoing the redetermination process when the Department issued him a VCL on December 12, 2018, requesting proof of his bank accounts and rent by December 26, 2018. Bank accounts are considered to be cash assets which affect eligibility for the FAP. BEM 400 (October 2018), pp. 3, 15. Therefore, the Department's request to verify Petitioner's bank accounts was in accordance with Department policy. When requesting verifications, the Department must inform the client what verifications are required, how to obtain them, and the due date. BAM 130, p. 3. The VCL issued on December 12th complies with all of those requirements. In addition, since the VCL was issued as part of the Redetermination process, the Department must provide the client with 10 days or until the end of the Redetermination month to return the requested proofs, whichever is later. BAM 130, p. 8. Since Petitioner's Redetermination month was from November 5, 2018, until December 5, 2018, the Department properly afforded Petitioner 10 days to return the requested proofs.

Petitioner testified that he does not remember receiving the VCL and admits that he was having trouble with his mail for about a week. In addition, he noted that he struggled to read portions of his mail due to blindness in one eye, and it was possible he just overlooked the document. The Department has not received any returned mail for Petitioner. The proper mailing and addressing of a letter creates a presumption of receipt which may be rebutted by evidence. *Stacey v Sankovich*, 173 NW2d 225 688 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 241 NW2d 71 (1976); *Long-Bell Lumber Co v Nynam*, 108 NW 1019 (1906). The Department presented sufficient evidence showing that the VCL had been mailed to the appropriate address for Petitioner. Since it is possible that Respondent received the mail but did not read it or that he overlooked it, and because the Department did not receive any returned mail, Petitioner has not adequately rebutted the presumption of receipt. Petitioner is responsible for reviewing all mail that he receives from the Department; and if he needs assistance in reading his mail, it is his responsibility to find help.

Since the Department properly mailed the VCL to Petitioner, provided him 10 days to respond, and clearly identified the items which he needed to return by the due date, but Petitioner did not return any of the required items by the due date, the Department properly closed Petitioner's FAP benefits.

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.

DECISION AND ORDER

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



AMTM/jaf

Amanda M. T. Marler
Administrative Law Judge
for Robert Gordon, 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

Jeanenne Broadnax
MDHHS-Wayne-18-Hearings

Petitioner

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