



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: March 2, 2020
MOAHR Docket No.: 19-013878
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, telephone hearing was held on February 27, 2020, from Lansing, Michigan. Petitioner represented herself. The Department was represented by Tamika Harris.

ISSUE

Did the Department of Health and Human Services (Department) properly determine Petitioner's eligibility for ongoing 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 November 4, 2019, the Department sent Petitioner a Redetermination (DHS-1010) form addressed to [REDACTED] [REDACTED] [REDACTED] Exhibit 2.
2. On November 4, 2019, the Department sent Petitioner notice that her eligibility for Food Assistance Program (FAP) benefits would end on December 31, 2019, unless she completed the redetermination forms. Exhibit 2.
3. On December 2, 2019, the Department notified Petitioner that she had missed her redetermination interview and that it was her responsibility to reschedule the interview. Exhibit 3.
4. On December 28, 2019, the Department received Petitioner's Renew Benefits, which was submitted on the internet. Exhibit 4.
5. On January 3, 2020, the Department requested that Petitioner reschedule her redetermination interview. Exhibit 5.

6. On January 7, 2020, the Department sent Petitioner a Quick Note (DHS-100) requesting that she reschedule her redetermination interview. Exhibit 5.
7. On January 17, 2020, the Department received Petitioner's request for a hearing protesting the closure of her Food Assistance Program (FAP) benefits. Exhibit 1.

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, 2019), p 9.

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.

The Department will send a negative action when the client indicates refusal to provide a verification, or the time period given has elapsed and the client has not made. Department of Health and Human Services Bridges Administrative Manual (BAM) 130 (April 1, 2017), p 7.

Reinstatement restores a closed program to active status without completion of a new application. Closed programs may be reinstated for complying with program requirements before the negative action date. Department of Health and Human Services Bridges Administrative Manual (BAM) 205 (January 1, 2018), p 1.

On November 4, 2019, the Department initiated a review of Petitioner's eligibility for ongoing FAP benefits by sending her a Redetermination (DHS-1010) form that was

addressed to [REDACTED] [REDACTED] [REDACTED] When Petitioner did not return this form, the required redetermination interview could not be conducted, and the Department notified her that her benefits would close at the end of the certification period, December 31, 2019, if she did not return the redetermination forms and reschedule the interview.

On December 28, 2019, the Department received Petitioner's Renew Benefits form, which is the equivalent of the Redetermination (DHS-1010) form.

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).

The Department mailed a Redetermination (DHS-1010) form to Petitioner addressed to 6126 Helen Street. Petitioner testified that she was not living at that address or living in Wayne County on November 4, 2019. Petitioner testified that she had moved to Oakland County, where her benefits case has been transferred to. This Administrative Law Judge finds that Petitioner has rebutted the presumption that she received the November 4, 2019, Redetermination form, and that she made a reasonable attempt to establish her eligibility for ongoing FAP benefits by filing the Renew Benefits form before the negative action 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 did not act in accordance with Department policy when it failed to make a determination of Petitioner's eligibility for ongoing FAP benefits after December 31, 2019.

DECISION AND ORDER

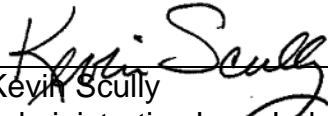
Accordingly, the Department's decision is REVERSED.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Determine Petitioner's eligibility date for Food Assistance Program (FAP) benefits based on the untimely submission of her Redetermination (DHS-1010)/Renew Benefits form.
2. Provide Petitioner with an opportunity to participate in a redetermination interview.
3. Initiate a determination of the Petitioner's eligibility for Food Assistance Program (FAP) benefits as her eligibility date.

4. Provide the Petitioner with written notice describing the Department's revised eligibility determination.
5. Issue the Petitioner any retroactive benefits her may be eligible to receive, if any.

KS/nr



Kevin Scully
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 Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR 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. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Office of Administrative Hearings and Rules
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

DHHS

Kathleen Verdoni
411 East Genesee
PO Box 5070
Saginaw, MI
48601

Oakland 4 County DHHS- via electronic mail

BSC4- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

Petitioner

[REDACTED] - via first class mail
[REDACTED], MI