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GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

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[REDACTED] MI [REDACTED]

Date Mailed: May 2, 2022  
MOAHR Docket No.: 22-001457  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Christian Gardocki**

### **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 hearing was held via telephone conference line on April 28, 2022. Petitioner appeared and was unrepresented.<sup>1</sup> The Michigan Department of Health and Human Services (MDHHS) was represented by Joanna Rivera, supervisor.

### **ISSUE**

The issue is whether MDHHS properly terminated Petitioner's Food Assistance Program (FAP) eligibility.

### **FINDINGS OF FACT**

The administrative law judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. As of January 2022, Petitioner was an ongoing recipient of FAP benefits as a senior and the only benefit group member.
2. On January 4, 2022, MDHHS mailed Petitioner a DHS-1010, Redetermination form concerning continuing FAP eligibility. No interview was required. The DHS-1010 warned that benefits would end at the end of February 2022 if it was not returned to MDHHS before February 15, 2022.
3. As of March 1, 2022, Petitioner did not return the DHS-1010 to MDHHS.
4. Beginning March 2022, MDHHS ended Petitioner's FAP eligibility.

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<sup>1</sup> Petitioner had an unidentified person observe to the hearing.

5. On March 29, 2022, Petitioner submitted a completed DHS-1010 to MDHHS.
6. On April 4, 2022, Petitioner requested a hearing to dispute the termination of FAP benefits.

### **CONCLUSIONS OF LAW**

The Food Assistance Program [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. MDHHS administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute a termination of FAP benefits. Exhibit A, pp. 3-4. MDHHS testified that Petitioner's FAP eligibility ended due to Petitioner's failure to return a DHS-1010 as part of a benefit redetermination.

For all programs, a complete redetermination is required at least every 12 months. BAM 210 (January 2021) p. 3. Bridges, the MDHHS database, automatically sends a DHS-1010 to the client three days prior to the negative action cut-off date in the month before the redetermination is due. *Id.*, p. 8. For FAP benefits, the redetermination process begins when the client files a DHS-1010 or other acceptable form. BAM 210 (January 2018) p. 3. FAP benefits stop at the end of the benefit period unless the redetermination process is completed, and a new benefit period is certified. *Id.* If the redetermination packet is not logged in by the last working day of the redetermination month, MDHHS automatically closes the benefits, and a Notice of Case Action is not generated. *Id.*, p. 14.

MDHHS contended that Petitioner's FAP eligibility properly ended after a DHS-1010 was mailed to Petitioner and it was not timely returned before March 2022. MDHHS presented a DHS-1010 dated January 4, 2022. Exhibit A, pp. 5-11. The mailing address on the form matched the same address verified by Petitioner as his. After checking its database, an MDHHS supervisor testified that the DHS-1010 was "central" printed. A central printing is a mailing by MDHHS's consolidated print center. The consolidated print center is known to print and mail documents through automation. Thus, documents sent by central print minimizes human error and should be a highly reliable method for sending documents to clients. The evidence created a presumption that the DHS-1010 was properly mailed to Petitioner.

The proper mailing and addressing of a letter creates a presumption of receipt. The 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 testified he did not receive the DHS-1010 until March 2022. Petitioner's testimony initially implied that MDHHS was at fault by claiming that MDHHS has a history of unreliable mail. Petitioner did not present the mailing envelope which could have verified a postmark date. Petitioner's testimony eventually acknowledged he had problems receiving mail due to his local post office. Petitioner's testimony was unverified and uncorroborated. Though Petitioner's testimony was not improbable, it was insufficient to rebut a presumption of timely receipt. It is found that Petitioner timely received the DHS-1010 properly sent by MDHHS.

As stated above, MDHHS is not required to send a closure notice for redeterminations. MDHHS is required to send notice of a missed redetermination interview when one is required. BAM 220 (November 2021) p. 6. However, an interview is not required for FAP groups that have no earned income and all adult members are elderly or disabled. *Id.* As a senior with no employment income and the only member of his benefit group, an interview was not required for Petitioner. Thus, MDHHS had no obligation to mail Petitioner notice of a missed interview.

MDHHS testified that it received Petitioner's DHS-1010 on March 29, 2022. However, because Petitioner submitted the form only after case closure, MDHHS had no obligation to process the DHS-1010.<sup>2</sup>

The evidence established that Petitioner failed to timely return to MDHHS a DHS-1010. The evidence also established that MDHHS followed its procedures in closing Petitioner's FAP case. Thus, MDHHS properly terminated Petitioner's FAP eligibility. As discussed during the hearing, Petitioner should reapply for FAP benefits if benefits are needed.

### **DECISION AND ORDER**

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly terminated Petitioner's FAP eligibility beginning March 2022. The actions taken by MDHHS are **AFFIRMED**.

CG/mp



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**Christian Gardocki**

Administrative Law Judge

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<sup>2</sup> In one circumstance, MDHHS may process redeterminations when required documents are submitted after the end of the benefit period. When the DHS-1010 is received before the end of the benefit period but required verifications are submitted after the benefit period then MDHHS may perform "subsequent processing". BAM 210 (November 2021) p. 22. Subsequent processing does not apply to the present case because Petitioner did not submit a DHS-1010 before the end of his benefit period.

