



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES  
SUZANNE SONNEBORN  
EXECUTIVE DIRECTOR

MARLON I. BROWN, DPA  
ACTING DIRECTOR

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

Date Mailed: December 1, 2023  
MOAHR Docket No.: 23-007258  
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 November 29, 2023. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Patrice Hornbuckle, specialist.

### **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 July 2023, Petitioner was an ongoing FAP recipient with a benefit period certified through August 2023.
2. On July 3, 2023, MDHHS mailed Petitioner a Mid-Certification Contact Notice (MCCN) form with a due date of July 24, 2023.
3. On August 10, 2023, MDHHS mailed Petitioner a Notice of Food Assistance (FAP) Closure form warning that FAP benefits would end at the end of the month due to Petitioner not returning the MCCN.
4. As of September 1, 2023, Petitioner failed to return the MCCN to MDHHS.

5. On [REDACTED] 2023, Petitioner reapplied for FAP benefits.
6. On October 2, 2023, MDHHS approved Petitioner for \$280 in ongoing FAP benefits but issued \$16 for September 2023 after pro-rating the FAP benefits from Petitioner's application date.
7. On October 24, 2023, Petitioner requested a hearing to dispute FAP eligibility for September 2023.

### **CONCLUSIONS OF LAW**

The 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. MDHHS administers the FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-119b, and Mich Admin Code, R 400.3001-.3011. FAP policies are contained in the BAM, BEM, and RFT.

Petitioner requested a hearing to dispute FAP eligibility for September 2023. Exhibit A, p. 4. A Notice of Case Action dated October 2, 2023, stated that Petitioner was eligible for \$280 in monthly FAP benefits, but only \$16 for September 2023 after benefits were prorated from Petitioner's application date. Exhibit A, pp. 27-31. Petitioner reapplied for FAP benefits on September 29, 2023. Exhibit A, pp. 6-16. Petitioner did not dispute that MDHHS properly pro-rated FAP benefits. Instead, Petitioner claimed she did not need to reapply because MDHHS improperly terminated her FAP eligibility beginning September 2023 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. The MDHHS database sends a DHS-2240-A, Mid-Certification Contact Notice (MCCN), for groups assigned a 24-month FAP benefit period during the 11th month of their benefit period. *Id.*, p. 11. A MCCN is considered complete when all the sections (including the signature section) are answered completely and required verifications are returned. *Id.* If the DHS-2240A is not logged by the 10th day of the 12<sup>th</sup> month, the MDHHS database will generate a DHS-2240B, a Notice of Food Assistance (FAP) Closure, to the client. *Id.*, p. 13. This reminder notice explains that the client must return the DHS-2240A and all required verifications by the last day of the month, or FAP benefits will end. *Id.*

MDHHS alleged that a MCCN was mailed to Petitioner and that Petitioner failed to return the form even after mailing a warning that benefits would end. MDHHS verified its testimony with a blank MCCN dated July 3, 2023, indicating a due date of July 23, 2023. Exhibit B, pp. 1-5. MDHHS also presented a Notice of Food Assistance (FAP) Closure form dated August 10, 2023, warning Petitioner that FAP benefits would end at the end of the month unless a MCCN was received. Exhibit C, pp. 1-2.

Petitioner did not deny failing to return the MCCN before the end of August 2023. Petitioner testified she did not return the MCCN only because she did not receive it.

Petitioner additionally denied receiving the Notice of Food Assistance (FAP) Closure form dated August 10, 2023.

The proper mailing and addressing of a letter creates a presumption of receipt. *Stacey v Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976). The presumption may be rebutted by evidence. *Id.*

During the hearing, Petitioner verified her mailing address. The MCCN and FAP closure notice each included the mailing address verified by Petitioner. The evidence created a presumption of receipt. Petitioner uncorroborated testimony of failing to receive multiple MDHHS mailings is insufficient to rebut the presumption of receipt.

The evidence established that Petitioner failed to timely return to MDHHS a MCCN. The evidence also established that MDHHS followed its procedures in closing Petitioner's FAP case. Thus, MDHHS properly terminated Petitioner's FAP eligibility beginning September 2023. Thus, Petitioner had to reapply for FAP benefits and MDHHS properly pro-rated Petitioner's FAP eligibility from Petitioner's application date.

### **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 September 2023. The actions taken by MDHHS are **AFFIRMED**.

CG/nr



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**Christian Gardocki**  
Administrative Law Judge

**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

**Via-Electronic Mail :**

**DHHS**

Chelsea McCune  
Macomb County DHHS Warren Dist.  
13041 E 10 Mile  
Warren, MI 48089

**MDHHS-Macomb-20-  
Hearings@michigan.gov**

**Interested Parties**

Macomb 20 County DHHS  
BSC4  
M. Holden  
N. Denson-Sogbaka  
B. Cabanaw  
MOAHR

**Via-First Class Mail :**

**Petitioner**

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