



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], MI [REDACTED]

Date Mailed: January 8, 2024
MOAHR Docket No.: 23-008576
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Danielle R. Harkness

HEARING DECISION

On November 29, 2023, Petitioner, [REDACTED] [REDACTED] requested a hearing to dispute the denial of her Food Assistance Program (FAP) application. As a result, a hearing was scheduled to be held on January 4, 2024, pursuant to MCL 400.9, 7 CFR 273.15, and Mich Admin Code, R 792.11002. Petitioner appeared at the hearing and represented herself. Respondent, Department of Health and Human Services (Department) had Tara Rogier, Eligibility Specialist, and Kathy Burr, APW Supervisor, appear as its representative.

A 25-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

ISSUE

Did the Department properly deny Petitioner's application for 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 [REDACTED] [REDACTED] 2023, Petitioner applied for FAP benefits.
2. On September 28, 2023, the Department mailed an Appointment Notice to Petitioner's last-known mailing address. The notice stated that Petitioner was to have an appointment on October 5, 2023, at 11:30 a.m.
3. On October 5, 2023, the Department mailed a Notice of Missed Appointment to Petitioner's last-known mailing address. The notice stated that Petitioner missed

her scheduled appointment and must reschedule the appointment before October 26, 2023, or her FAP application would be denied.

4. Petitioner did not contact the Department to reschedule her appointment, therefore, her FAP application was denied, and a Notice of Case Action was mailed to Petitioner on October 26, 2023, informing her of the denial.
5. Petitioner requested a hearing to dispute the Department's denial.

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) 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 administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

Following registration of the application, an interview is required. BAM 115 (January 1, 2024), p. 1. The application will not be denied until the 30th day after the application date if the client has not participated in a scheduled initial interview. *Id.* at p. 18.

In this case, Petitioner is disputing the Department's decision to deny her application for FAP benefits. The Department denied Petitioner's application for FAP benefits because Petitioner did not complete the interview requirement. Petitioner stated that she did not receive the September 28, 2023, Appointment Notice or the October 5, 2023, Notice of Missed Appointment because her mail was being returned to the post office as undeliverable even though she resided at that address. The Department indicated that the September 28, 2023, Appointment Notice and the October 5, 2023, Notice of Missed Appointment were mailed to Petitioner's last-known mailing address and were not returned to the Department as undeliverable.

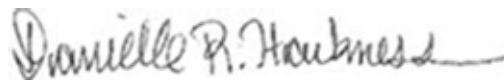
Documents properly addressed and placed in the mail are presumed to reach their destination. *Crawford v Michigan*, 208 Mich App 117, 121; 527 NW2d 30 (1994). "This - 2- presumption may be rebutted by evidence, but whether it was a question for the trier of fact." *Stacey v Sankovich*, 19 Mich App 688, 694; 173 NW2d 225 (1969). Plaintiff denied receipt of the papers but presented no evidence to rebut the presumption of receipt. The mere denial of service is insufficient to rebut the presumption. Cf. *Ins Co of North America v Issett*, 84 Mich App 45, 49; 269 NW2d 301 (1978); *James v James*, 57 Mich App 452, 454; 225 NW2d 804 (1975). In this case, the Department provided credible evidence that the September 28, 2023, Appointment Notice and the October 5, 2023, Notice of Missed Appointment were mailed to Petitioner's last-known mailing address and were not returned as undeliverable. Petitioner's denial of service of the

September 28, 2023, Appointment Notice and the October 5, 2023, Notice of Missed Appointment is insufficient to rebut this presumption.

DECISION AND ORDER

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 act in accordance with its policies and the applicable law when it denied Petitioner's application for Food Assistance Program benefits.

IT IS ORDERED, the Department's decision is **AFFIRMED**.



DH/nr

Danielle R. Harkness
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

Trista Waishkey
Washtenaw County DHHS
22 Center Street
Ypsilanti, MI 48198
**MDHHS-Washtenaw-
Hearings@michigan.gov**

Interested Parties

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

Via-First Class Mail :

Petitioner

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