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GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM  
Christopher Seppanen  
Executive Director

MIKE ZIMMER  
DIRECTOR

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Date Mailed: March 25, 2016  
MAHS Docket No.: 16-001643  
Agency No.: ██████████  
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**ADMINISTRATIVE LAW JUDGE: Zainab Baydoun**

**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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on March 24, 2016, from Detroit, Michigan. The Petitioner represented herself. The Department of Health and Human Services (Department) was represented by ██████████, Hearings Facilitator and ██████████, Assistance Payment Worker. ██████████ served as Arabic Interpreter.

**ISSUE**

Did the Department properly close Petitioner's Food Assistance Program (FAP) case?

**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 is ██████ years old and was an ongoing recipient of FAP benefits on two cases.
2. In connection with a redetermination, Petitioner's eligibility to receive FAP benefits was reviewed.
3. At redetermination, Petitioner's case worker discovered that Petitioner had two FAP cases, the first for a group size of one (Petitioner) and the second for a group size of two (Petitioner and her child).

4. The Department reviewed case comments which indicated that in 2014, Petitioner reported that she was living with her parents.
5. The Department verbally instructed Petitioner to submit proof of her parents' information, and proof of her residential address/living arrangement.
6. The Department did not send Petitioner a Verification Checklist or other written request for verifications.
7. On January 20, 2016, the Department sent Petitioner a Notice of Case Action (Notice) informing her that effective March 1, 2016, her FAP case would be closed on the basis that she failed to verify or allow the Department to verify information. (Exhibit A)
8. On January 20, 2016, the Department also sent Petitioner a Notice of Case Action (Notice) informing her that effective March 1, 2016, her other FAP case would be closed on the basis that she has another active FAP case and is receiving FAP on another case. The Notice further indicates that because Petitioner is under 22 and living with her parents, she cannot be on her own FAP case. (Exhibit C)
9. On January 28, 2016, Petitioner requested a hearing disputing the Department's actions with respect to her FAP cases.

### **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.

In this case, Petitioner testified that although she was provided with two separate FAP cards, she did not know she had active FAP benefits on both cases. She stated she thought that one card was for her and the other card was for her son. The Department stated that because Petitioner failed to provide verification that she was not living in her parents' home, it sent her a Notice closing her FAP case effective March 1, 2016, based on a failure to verify requested information. (Exhibit A). The Department further testified that Petitioner's other FAP case was closed effective March 1, 2016, because it

determined that she had active benefits on two FAP cases and that because she was 21 and living in the home with her parents, she was not eligible to have a separate case. (Exhibit C). The Department testified that with respect to both FAP case closures, it spoke to Petitioner and her family members via telephone through an interpreter and verbally instructed her to submit proof that she was not living with her parents and in the alternative, her parents' information. It was unclear based on the Department's testimony however, exactly what documents were actually being requested from Petitioner.

Additionally, verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (July 2015), p.1. To request verification of information, the Department sends a verification checklist (VCL) which tells the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. Although the client must obtain the required verification, the Department must assist if a client needs and requests help. If neither the client nor the Department can obtain the verification despite a reasonable effort, the Department is to use the best available information; and if no evidence is available, the Department is to use its best judgment. BAM 130, p. 3.

With respect to FAP cases, clients are given 10 calendar days to provide the verifications requested by the Department. Verifications are considered to be timely if received by the date they are due. BAM 130, pp.6-7. The Department sends a negative action notice when the client indicates a refusal to provide a verification or the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130, pp.6- 7.

In this case, the Department conceded at the hearing that it did not send Petitioner a VCL or similar written request for verification prior to the case closure. There was some testimony at the hearing that Petitioner did provide proof of her residential address in an attempt to verify that she was not living with her parents and that they had two different addresses—as their home was a two family home. Petitioner stated she, her son, and siblings live in the upper flat of the home and her parents live in the lower flat of the home which has a separate kitchen and mailing address.

While the Department is correct that Petitioner cannot have active benefits on two cases at the same time, the Department improperly closed Petitioner's case based on a failure to verify, as it did not establish that it appropriately sent Petitioner a VCL instructing her which documents to submit, how to obtain them, or the due 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 closed Petitioner's FAP case based on a failure to verify requested information.

**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. Reinstate Petitioner's FAP case effective March 1, 2016;
2. Redetermine Petitioner and her son's eligibility for FAP from March 1, 2016, ongoing;
3. Issue supplements to Petitioner for any FAP benefits that she was entitled to receive but did not, if any, in accordance with Department policy; and
4. Notify Petitioner in writing of the Department's decision.

ZB/tlf



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**Zainab Baydoun**  
Administrative Law Judge  
for Nick Lyon, 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) 335-6088; 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

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