



RICK SNYDER  
GOVERNOR

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

SHELLY EDGERTON  
DIRECTOR

[REDACTED]

Date Mailed: January 24, 2017  
MAHS Docket No.: 16-018710  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Darryl Johnson

### **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 January 17, 2016, from Lansing, Michigan. The Petitioner appeared on his own behalf. The Department of Health and Human Services (Department) was represented by Family Independence Manager [REDACTED] [REDACTED] and Eligibility Specialist [REDACTED] [REDACTED]

### **ISSUE**

Did the Department properly close Petitioner's 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. Petitioner was an on-going FAP recipient.
2. Petitioner's FAP group includes his 28-year-old special-needs stepson.
3. The stepson was employed at a [REDACTED] franchise beginning in May 2016.
4. The Department based the group's FAP on the group's income, including the stepson's income of \$ [REDACTED] per month.

5. During a November 9, 2016, telephone interview, Petitioner informed the Department that the stepson's job had ended.
6. On November 18, 2016, the Department mailed to Petitioner a Verification Checklist (Exhibit A Pages 5-6) and a Verification of Employment (Pages 7-10), with a due date of November 18, 2016.
7. Petitioner took the Verification of Employment form to the former employer, but there was a new manager on duty who refused to complete the form.
8. Petitioner mailed the form to the owner of the franchise for him to complete it and submit it to the Department.
9. On November 30, 2016, the Department mailed a Notice of Case Action (Pages 11-14) to Petitioner, informing him that his FAP would be closed effective December 1, 2016, because "Verification of Loss of Employment (BEM 501), Earned Income Payment (BEM 501) was not returned" for the stepson.
10. The Department received Petitioner's hearing request, protesting the closure of his FAP, on December 6, 2016.

### **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. This includes completion of necessary forms; see Refusal to Cooperate Penalties in this item. Clients must completely and truthfully answer all questions on forms and in interviews." BAM 105 (10/1/16) p. 9. In all programs, "Clients who are able but refuse to provide necessary information or take a required action are subject to penalties. Specific penalties can be found in the applicable Bridges Eligibility Manual (BEM) and BAM items." Id. BAM 105 states at p. 13, "Clients must take actions within their ability to obtain verifications. MDHHS staff must assist when necessary; see BAM 130 and BEM 702."

In this case, Petitioner had a responsibility to take actions within his ability to obtain verifications. He testified convincingly that he took the employment verification to the location where his stepson had worked, and the manager there refused to complete it. He then mailed the form to the franchise owner for it to be completed. The form itself was addressed to the owner, and the form must be completed and signed on behalf of the business. Petitioner could not complete the form, and it was not within his ability to force the owner to complete and submit the form. There is no evidence that he was able, but refused, to take required action. Furthermore, BAM 105 states at page 19, "Do not deny or terminate assistance because an employer or other source refuses to verify income; see BAM 130, **VERIFICATION AND COLLATERAL CONTACTS** and BEM 702, **Child Development and Care (CDC) VERIFICATIONS.**" (Emphasis in original.) In this case, the Department closed Petitioner's FAP because the employer refused to verify income, or in this case, a lack of income, and that was contrary to policy.

The Department erred in closing Petitioner's FAP.

### **DECISION AND ORDER**

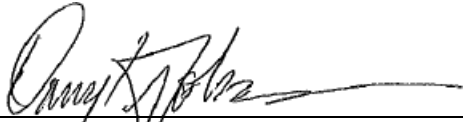
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it closed Petitioner's FAP.

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. Redetermine Petitioner's FAP benefit eligibility, effective December 1, 2016;
2. Issue a supplement to Petitioner for any benefits improperly not issued.

DJ/mc

  
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**Darryl Johnson**  
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

**DHHS**

[REDACTED]

**Petitioner**

[REDACTED]