



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 30, 2017  
MAHS Docket No.: 16-019032  
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; 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 23, 2017, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], hearing facilitator.

### **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. Petitioner was an ongoing FAP benefit recipient.
2. On [REDACTED], MDHHS mailed Petitioner a Verification Checklist (VCL) requesting, in part, a checking account statement.
3. On [REDACTED], Petitioner returned to MDHHS a checking account statement.
4. On [REDACTED], MDHHS terminated Petitioner's FAP eligibility, effective January 2017, due to Petitioner's alleged failure to verify a checking account.

5. On [REDACTED], Petitioner requested a hearing to dispute the termination of FAP eligibility.

### CONCLUSIONS OF LAW

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. MDHHS (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. 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. MDHHS presented a Notice of Case Action (Exhibit 1, pp. 1-4) dated [REDACTED]. The notice stated Petitioner's FAP eligibility would end January 2016 due to Petitioner's alleged failure to verify assets.

Assets must be considered in determining eligibility for... FAP. BEM 400 (January 2017), p. 1. [MDHHS is to] verify the value of countable assets at application, redetermination and when a change is reported. *Id.*, p. 58. [The FAP asset limit is] \$5,000 or less. *Id.*, p. 5

[For all programs, MDHHS is to] use the DHS-3503, Verification Checklist to request verification. BAM 130 (July 2016), p. 3. [MDHHS must] allow the client 10 calendar days (or other time limit specified in policy) to provide the verification that is requested. *Id.*, p. 6. [MDHHS] must tell the client what verification is required, how to obtain it, and the due date.... *Id.*, p. 3. [MDHHS is to] send a negative action notice when... the client indicates refusal to provide a verification, or the time period given has elapsed and the client has not made a reasonable effort to provide it. *Id.*

MDHHS presented a Verification Checklist (Exhibit 1, p. 5) dated [REDACTED]. The VCL requested, in part, verification of Petitioner's checking account. The due date for Petitioner to return verification was [REDACTED].

In response to the VCL, Petitioner returned various documents (Exhibit 1, pp. 7-12). The returned documents included statements for Petitioner's checking and savings accounts.

The MDHHS case summary contended Petitioner's returned documents were insufficient because Petitioner did not return "all pages" of her account statements. Petitioner's returned documents appeared to be complete bank statements. MDHHS testimony concurred that Petitioner's returned documents complied with the VCL request.

It is found that Petitioner complied with the VCL dated [REDACTED]. Thus, MDHHS had no basis to terminate Petitioner's FAP eligibility on [REDACTED]. The termination will be reversed. The appropriate remedy is reinstatement of Petitioner's FAP eligibility. MDHHS testimony implied that Petitioner must verify other information before a reinstatement can occur.

MDHHS testimony indicated that it was learned at the pre-hearing conference that Petitioner may have divested assets following the sale of a home in 2016. MDHHS contended that Petitioner must verify information related to profit made from the home sale.

MDHHS may be correct in requiring Petitioner to verify information related to the sale of the home. MDHHS might be correct in eventually ceasing Petitioner's FAP eligibility. MDHHS cannot erroneously terminate Petitioner's FAP eligibility and then later withhold reinstatement based on a reason unrelated to the original basis for termination. If there is an eventual basis for terminating Petitioner's FAP eligibility, MDHHS will have to take such action only after reinstating Petitioner's FAP eligibility.

### **DECISION AND ORDER**

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly terminated Petitioner's FAP eligibility. It is ordered that MDHHS begin to perform the following actions within 10 days of the date of mailing of this decision:

- (1) Reinstate Petitioner's FAP eligibility, effective January 2017, subject to the finding that Petitioner verified checking and savings account information; and
- (2) Issue any benefits improperly not issued.

The actions taken by MDHHS are **REVERSED**.

CG/hw



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**Christian Gardocki**  
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]

[REDACTED]

**Petitioner**

[REDACTED]