



RICK SNYDER  
GOVERNOR

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

SHELLY EDGERTON  
DIRECTOR

[REDACTED]  
[REDACTED]  
[REDACTED]

Date Mailed: May 5, 2017  
MAHS Docket No.: 17-004174  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Eric J. Feldman**

### **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 [REDACTED] [REDACTED] from Detroit, Michigan. Petitioner was present for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearings Facilitator.

### **ISSUES**

1. Did the Department properly process Petitioner's reported change in group composition dated [REDACTED]?
2. Did the Department properly close Petitioner's Food Assistance Program (FAP) benefits effective [REDACTED]?

### **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 recipient of FAP benefits.
2. On [REDACTED], Petitioner submitted an online Change Report in which she reported that her spouse was back in the household as of [REDACTED]. Exhibit B, pp. 1-4.

3. The Department failed to process Petitioner's reported change in group composition.
4. On [REDACTED], Petitioner reported at the local Department office that her spouse was back in the home. Exhibit A, p. 1, and Exhibit B, pp. 5-6.
5. The spouse had one employment at [REDACTED] that ended on or about [REDACTED] (hereinafter referred to as his "first employment"), and another employment that he was employed at the time at [REDACTED] [REDACTED] (hereinafter referred to as his "second employment").
6. On [REDACTED], the Department requested verification of the spouse's second employment, which resulted in the Department issuing a Verification of Employment; and it was due back by [REDACTED]. Exhibit A, pp. 5-6.
7. On [REDACTED], the Department sent Petitioner a Verification Checklist, which requested proof of the spouse's loss of employment at the first employment and current wages; and it was due back by [REDACTED]. Exhibit A, pp. 7-8.
8. On [REDACTED], Petitioner submitted her spouse's check stubs for the second employment, but the verifications failed to display the pay dates and pay period end date. Exhibit A, pp. 11-13.
9. Per the credible testimony of Petitioner, the first employment refused to provide verification of the spouse's loss of employment, which resulted in Petitioner attempting to obtain assistance from her caseworker, but to no avail.
10. The Department did not receive verification of the loss of employment from the first employment.
11. On [REDACTED], the Department sent Petitioner a Notice of Case Action notifying her that her FAP benefits would close effective [REDACTED], ongoing, based on her failure to provide verification of the spouse's loss of employment for the first employment; and the failure to provide proper verification (missing pay dates and pay period end date) of the spouse's wages for the second employment. Exhibit A, pp. 1 and 9-10.
12. On [REDACTED], Petitioner filed a hearing request, protesting the Department's action. Exhibit A, pp. 2-3.

### **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.

### **Preliminary matter**

Based on the Petitioner's hearing request and testimony, she is disputing the following: (i) the failure to process her reported change in group composition; and (ii) the closure of her FAP benefits effective [REDACTED]. Exhibit A, pp. 2-3. The undersigned Administrative Law Judge (ALJ) will address each issue separately below:

### **Group composition**

Clients must report changes in circumstance that potentially affect eligibility or benefit amount. BAM 105 (October 2016), p. 11. Other changes must be reported within 10 days after the client is aware of them. BAM 105, p. 12. These include, but are not limited to, changes in persons in the home. BAM 105, p. 12.

For FAP cases, a member add that increases benefits is effective the month after it is reported or, if the new member left another group, the month after the member delete. BEM 212 (October 2015), p. 9. In determining the potential FAP benefit increase, the Department assumes the Family Independence Program (FIP)/State Disability Assistance (SDA) supplement and new grant amount have been authorized. BEM 212, p. 9.

In the present case, Petitioner submitted an online Change Report on [REDACTED], in which she reported that her spouse was back in the household as of [REDACTED]. Exhibit B, pp. 1-4. The Department acknowledged that it failed to process Petitioner's reported change in group composition. Because the Department erred in processing Petitioner's reported change in group composition, the Department is, therefore, ordered to process this reported change in accordance with Department policy. See BAM 105, p. 12 and BEM 212, p. 9.

### **FAP closure**

In this case, the Department closed Petitioner's FAP benefits because (i) she failed to provide verification of the spouse's loss of employment for the first employment; and (i) she failed to provide proper verification (missing pay dates and pay period end date) of the spouse's wages for the second employment. Exhibit A, pp. 1 and 9-10.

In regards to the spouse's first employment, on [REDACTED], the Department sent Petitioner a Verification Checklist, which requested proof of the spouse's loss of employment at the first employment and current wages; and it was due back by [REDACTED]. Exhibit A, pp. 7-8. The Department indicated that it did not receive

verification of the loss of employment from the first employment. As such, this was one reason why her FAP benefits closed.

In response, Petitioner testified the spouse's first employment refused to provide verification of the loss of employment. As such, prior to the verification due date of [REDACTED], Petitioner testified that she attempted to contact her caseworker by telephone and e-mail to seek assistance on how she should obtain the loss of employment, but she received no assistance.

Clients must cooperate with the local office in determining initial and ongoing eligibility. BAM 105 (October 2016), p. 9. This includes completion of necessary form. BAM 105, p. 9. The local office must assist clients who ask for help in completing forms, gathering verifications, and/or understanding written correspondence sent from the department. BAM 105, p. 15.

The Department tells the client what verification is required, how to obtain it, and the due date. BAM 130 (January 2017), p. 3. The Department uses the DHS-3503, Verification Checklist (VCL), to request verification. BAM 130, p. 3. The Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verification that is requested. BAM 130, p. 7. The Department sends 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. BAM 130, p. 7.

Additionally, policy states that the Department does not deny or terminate assistance because an employer or other source refuses to verify income. BEM 501 (July 2016), p. 9.

Based on the above information, the undersigned finds Petitioner's testimony credible that her spouse's first employment refused to complete the loss of employment verification and that she, therefore, sought assistance from her caseworker on how to proceed with the loss of employment form, but received no help. Petitioner's credibility is supported by the fact that she did attempt to submit verifications of her spouse's second employment, which, to the undersigned, shows that she was making attempts to provide the necessary verifications, including the first employment. As such, Petitioner credibly established that she asked her caseworker for assistance with the spouse's first employment verification and never received such help. Thus, the Department improperly closed Petitioner's FAP case in accordance with Department policy. See BAM 105, p. 15, and BAM 130, p. 7.

In regards to the spouse's second employment, on [REDACTED], the Department requested verification of the spouse's second employment, which resulted in the Department issuing a Verification of Employment; and it was due back by [REDACTED] Exhibit A, pp. 5-6. On [REDACTED], Petitioner submitted her spouse's check stubs for the second employment, but the verifications failed to display the pay dates and pay period end dates. Exhibit A, pp. 11-13. As such, this was second reason why her FAP benefits closed.

Verification for wages, salaries, and commissions include: (i) check stubs or earnings statements; (ii) a Verification of Employment; (iii) employer generated work schedule, when pay frequency, pay day and rate of pay are known, when this source is used, select other acceptable as the verification source; (iv) and other verifications indicated in BEM 501. See BEM 501, p. 11.

Policy also states that the client must obtain required verification, but the local office must assist if they need and request help. BAM 130, p. 3. If neither the client nor the local office can obtain verification despite a reasonable effort, use the best available information. BAM 130, p. 3. If no evidence is available, use your best judgment. BAM 130, p. 3.

Based on the above information, the undersigned does not find the Department's argument persuasive that the Department should have closed the FAP benefits because the submitted pay stubs for the second employment failed to provide the pay dates and pay period end dates. Exhibit A, pp. 11-13. Yes, the verification of wages does infer that the pay dates/pay period end dates should be provided. See BEM 501, p. 11. However, policy also states that the Department should have used the best available information she had provided, which was the three pay stubs provided on [REDACTED]. Exhibit A, pp. 11-13. A review of the three pay stubs does show that the pay dates are cut-off; however, the pay stubs show the beginning pay periods and his gross pay. Exhibit A, pp. 11-13. Thus, the Department could have used this best available information she had provided and determined eligibility. See BAM 130, p. 3. Moreover, policy states that the Department sends a negative action notice when the time period given has elapsed; and the client has not made a reasonable effort to provide it. BAM 130, p. 7. The undersigned finds that Petitioner made a reasonable effort to provide the verification of the second employment before the time period had elapsed (reasonable policy only applicable to FAP cases). See BAM 130, p. 7. Petitioner provided the second employment verification on [REDACTED], which was before the due date of [REDACTED]. Exhibit A, pp. 5-6. Thus, this is an additional policy reason as to why Petitioner's FAP benefits should have not closed based on the best available information she had provided and the fact that she made a made a reasonable effort to provide the verifications before the time period had elapsed. See BAM 130, pp. 3 and 7.

Accordingly, the undersigned finds that the Department improperly closed Petitioner's FAP benefits; and the Department is ordered to redetermine her FAP eligibility effective [REDACTED], ongoing. BAM 105, pp. 9 and 15; and BAM 130, pp. 3 and 7.

### **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 (i) the Department did not act in accordance with Department policy when it failed to process Petitioner's reported change in group composition dated [REDACTED]; and (ii) the Department did not act in accordance with Department policy when it improperly closed her FAP benefits effective [REDACTED].

Accordingly, the Department's FAP 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. Process Petitioner's reported change in group composition dated [REDACTED];
2. Reinstate Petitioner's FAP case effective [REDACTED];
3. Redetermine Petitioner's FAP eligibility effective [REDACTED];
4. Issue supplements to Petitioner for any FAP benefits she was eligible to receive but did not from [REDACTED], ongoing; and
5. Notify Petitioner of its decisions.

EJF/jaf



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**Eric J. Feldman**  
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

**Petitioner**

[REDACTED]  
[REDACTED]  
[REDACTED]

**DHHS**

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]