



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: June 19, 2017  
MAHS Docket No.: 17-006380  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Denise McNulty

### **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 June 14, 2017, from Lansing, Michigan. The Petitioner represented herself and was accompanied by [REDACTED], her mother, and her minor child, [REDACTED]. The Department of Health and Human Services (Department) was represented by [REDACTED] Family Independence Manager; [REDACTED], Family Independence Specialist; and.

### **ISSUE**

Did the Department properly close Petitioner's FAP benefits 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 was a recipient of FAP benefits, only for her daughter, a minor child.
2. On October 14, 2015, the Department through the Office of Child Support notified Petitioner that she was "found uncooperative." [Exhibit C, p. 1.]
3. Petitioner has remained ineligible for FAP benefits since the October 2015 finding that Petitioner was "uncooperative" with the Office of Child Support. Petitioner was sanctioned with regards to FAP benefits beginning in 2015 and Petitioner did not request a hearing on that issue at that time.

4. Petitioner's status has not changed with the Office of Child Support since October 2015. The Department provided Petitioner with the information and the forms by which to remove sanctions. [Exhibit B and Exhibit C, p. 9.]
5. Petitioner applied for Child Development and Care (CDC) benefits in March 2017. Because Petitioner's FAP case was due for review the Department used the CDC benefits application information to make the FAP redetermination.
6. The Department requested verifications from Petitioner with a due date of March 27, 2017. In error, the Department closed Petitioner's FAP case on April 1, 2017. Petitioner submitted all of the requested verifications timely.
7. On March 16, 2017, the Department sent Petitioner a Notice of Case Action notifying Petitioner that her FAP case would be closed effective April 1, 2017, for failure to provide verifications and failure to cooperate with Office of Child Support. [Exhibit A, p. 2.]
8. On April 28, 2017, Petitioner filed a Request for Hearing disputing the Department's actions as stated in the March 16, 2017, Notice of Case Action.

### **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.

A client's request for hearing must be in writing and signed by an adult member of the eligible group, adult child, or authorized hearing representative (AHR). Department of Health and Human Services Bridges Administrative Manual (BAM) 600 (October 2015), p. 2. Moreover, BAM 600, p. 6 provides that a request for hearing must be received in the Department local office within 90 days of the date of the written notice of case action.

In the present case, the Department sanctioned Petitioner with regard to her FAP benefits in 2015 due to "noncooperation" with the Office of Child Support. [Exhibit C, pp. 1 and 7.] That action occurred more than 90 days prior to Petitioner's request for hearing on the Notice of Case Action dated March 16, 2017. There is no jurisdiction to address the "noncooperation" issue. Failure to cooperate, with the Office of Child

Support, without good cause, results in disqualification of the individual who failed to cooperate. The individual and her needs are removed from the FAP EDG for a minimum of one month. The remaining eligible group members will receive benefits. BEM 255, (January 2017), p. 15 Petitioner was provided information about how to get her status changed with the Office of Child Support. [Exhibit B and Exhibit C, p.9.] At the time of the hearing the Office of Child Support still considered Petitioner to be “uncooperative” with child support issues.

Because Petitioner remains in “noncooperative” status with the Office of Child Support she remains ineligible for FAP benefits. Therefore the Department properly continued to find Petitioner was in “noncooperative” status and ineligible for benefits.

Petitioner submitted an application for Child Development Care in 2017. Petitioner was due for a review of her FAP benefits so the Department used the application information to begin a redetermination. The Department sent Petitioner a request for verification of assets. Assets must be considered in determining eligibility for FAP benefits. BEM 400 (July 2016), p. 1. Clients must cooperate with the local office in determining initial and ongoing eligibility. BAM 105 (October 2016), p.9. In this case, Petitioner returned the requested verification after the due date but before the negative action date. At redetermination, **FAP** clients have until the last day of the redetermination month **or** 10 days, whichever is later, to provide verification; see BAM 210 (July 2016), p. 16.; and BAM 130 (April 2016), p. 8. In error, the Department closed Petitioner’s FAP benefits in their entirety. After the error was found the benefits for the minor child, only, were reinstated.

The Department did not act in accordance with policy when it closed Petitioner’s FAP benefits with an effective date of April 1, 2017.

### **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 acted in accordance with Department policy when it continued to deny Petitioner individual benefits due to her “noncooperative” status with the Office of Child Support. It is further found that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Petitioner’s FAP case, with an effective date of April 1, 2017.

Accordingly, the Department’s decision is **AFFIRMED IN PART** with respect to continuing the sanctions regarding Petitioner’s individual FAP benefits and **REVERSED IN PART** with respect to the closer of Petitioner’s FAP case.

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, UNLESS ALREADY DONE:

1. Reinstate Petitioner's FAP case effective April 1, 2017;
2. Issue supplements to Petitioner for FAP benefits she was eligible to receive but did not from April 1, 2017 ongoing; and
3. Notify Petitioner in writing of its FAP decision.



DM/nr

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Denise McNulty  
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]

**Department Representative**

[REDACTED]

**Petitioner**

[REDACTED]