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GOVERNOR

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

SHELLY EDGERTON  
DIRECTOR

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Date Mailed: July21, 2017  
MAHS Docket No.: 17-008072  
Agency No.: ██████████  
Petitioner: ██████████

**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 ██████████ from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by ██████████, supervisor, and ██████████, specialist.

**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 recipient of FAP benefits.
2. On ██████████, MDHHS mailed Petitioner a Verification Checklist (VCL) requesting, among other items, proof of assets.
3. The VCL did not list examples of acceptable assets.
4. On ██████████, MDHHS terminated Petitioner's FAP eligibility, effective ██████████, due to Petitioner's failure to verify assets.
5. On ██████████, Petitioner requested a hearing to dispute the termination of FAP benefits.

## 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 from [REDACTED]. MDHHS presented a Notice of Case Action (Exhibit 1, pp. 8-11) dated [REDACTED]. The notice informed Petitioner of a termination of FAP benefits due to a failure to verify assets.

Assets must be considered in determining eligibility for... FAP. BEM 400 (April 2017), p. 1. [Assets for FAP benefits must be,] \$5,000 or less. *Id.*, p. 5.

Petitioner held a [REDACTED] account into which his RSDI benefits were deposited. MDHHS testimony indicated they learned of the account during a redetermination of Petitioner's FAP eligibility for [REDACTED]. Upon learning of the account, MDHHS requested verification of the account balance.

MDHHS presented a Verification Checklist (Exhibit 1, pp. 1-2) dated [REDACTED]. The VCL requested "assets". MDHHS also presented a Verification of Assets (Exhibit 1, pp. 3-4) dated [REDACTED], which was mailed with the VCL.

In response to the VCL, Petitioner submitted to MDHHS a Verification of Assets (Exhibit 1, pp. 5-6) which was blank other than Petitioner's written statement, "I have the [REDACTED] Card". Petitioner also submitted an ATM receipt for his [REDACTED] account (Exhibit 1, p. 7). The submitted receipt included the last few numbers of Petitioner's account number, but no name.

MDHHS contended Petitioner's submission was insufficient because the receipt could not be tied to Petitioner's [REDACTED] account. The contention appears to be consistent with MDHHS policy.

[Acceptable verification for pre-paid vendor debit cards includes...] ATM balance inquiry with sufficient information to support a match to the account. *Id.*, p. 63. For example, the card number matches the printed digits on the ATM slip. *Id.*

The above-referenced MDHHS policy justifies MDHHS' expectation of more than Petitioner's submitted receipt to verify his [REDACTED] Account. It was not necessarily verified that MDHHS made a proper request for the verification.

[For all programs, MDHHS is to] use the DHS-3503, Verification Checklist (VCL), to request verification. BAM 130 (January 2017), 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. 7. [MDHHS must] tell the client what verification is required, how to obtain it, and the due date.... *Id.*, p. 3.

The VCL used by MDHHS to request proof of Petitioner's [REDACTED] account merely requested proof of Petitioner's "assets". Examples of acceptable verification of assets were not listed on the VCL. In contrast, the VCL also requested proof of an electrical expense for which four different examples of acceptable verification were listed.

MDHHS testimony credibly indicated that Petitioner was verbally advised throughout the redetermination process of what verification was acceptable. MDHHS policy does not appear to allow for verbal notice in place of written notice.

During the hearing, MDHHS was asked why examples of acceptable verification of assets were not listed on the VCL. MDHHS responded that the circumstances justified a "hard pend" which results in a VCL not listing examples of acceptable verification. It is not known if the absence of acceptable verification examples on the VCL is a flaw in the MDHHS database or in the processing of Petitioner's case; either way, the VCL was improper by failing to inform Petitioner what verification was required.

It is found that MDHHS' failure to include examples of acceptable verification examples on the VCL was improper. Thus, the subsequently performed FAP closure was also improper.


### **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) Reprocess Petitioner's FAP eligibility effective [REDACTED], subject to the finding that MDHHS failed to properly request verification of Petitioner's [REDACTED] account; and
- (2) Initiate a supplement of any benefits improperly not issued.

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

CG/jaf

  
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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]

**Petitioner**

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]