



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

SHELLY EDGERTON  
DIRECTOR

[REDACTED]  
[REDACTED]  
[REDACTED]

Date Mailed: July 28, 2017  
MAHS Docket No.: 17-008401  
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; 42 CFR 438.400 to 438.424; 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], from Detroit, Michigan. Petitioner was present for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Assistance Payments Supervisor; and [REDACTED] Eligibility Specialist.

**ISSUE**

Did the Department properly deny Petitioner's Food Assistance Program (FAP) application 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. On [REDACTED], Petitioner applied for FAP benefits.
2. Prior to issuing the verification request, the Department's system (Bridges) indicated that Petitioner reported having a [REDACTED] savings account.
3. On [REDACTED], the Department sent Petitioner a Verification Checklist (VCL), which requested verification of her savings account, residential address, home rent, and checking account. The Department also sent Petitioner a Verification of Assets for Petitioner's "[REDACTED]" bank account (hereinafter referred as to

“██████████”) and a Verification of Assets for Petitioner’s “██████████” bank account. The verifications were due back by ██████████. [Exhibit A, pp. 5-10.]

4. On ██████████, Petitioner submitted her ██████████ bank account, her driver’s license (residential address verification), and a utility bill.
5. The Department did not receive verification of the ██████████ bank account by the due date of ██████████.
6. On ██████████, the Department sent Petitioner a Notice of Case Action notifying her that her FAP application was denied effective ██████████, because her ██████████ bank account was not submitted. [Exhibit A, pp. 2-4.]
7. On ██████████, Petitioner filed a hearing request, protesting the Department’s action. [Exhibit A, pp. 11-12.]

### **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. BAM 105 (October 2016), p. 9. This includes completion of necessary forms. BAM 105, p. 9.

The Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verification that is requested. BAM 130 (April 2017), p. 7. Verifications are considered to be timely if received by the date they are due. BAM 130, p. 7. For electronically transmitted verifications (fax, email or MI Bridges document upload), the date of the transmission is the receipt date. BAM 130, p. 7. Verifications that are submitted after the close of regular business hours through the drop box or by delivery of a MDHHS representative are considered to be received the next business day. 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.

In this case, prior to Petitioner’s ██████████, application, she had previously applied and/or received benefits and the Department had records of Petitioner having a ██████████ bank account. As such, after Petitioner applied for benefits

in this case on [REDACTED], the Department requested verifications from Petitioner, which included the [REDACTED] because its system (Bridges) showed that she had such an account. Specifically, on [REDACTED], the Department requested verification of Petitioner's [REDACTED] bank account, [REDACTED] bank account, residential address, and home rent and the verifications were due back by June 12, 2017. [Exhibit A pp. 5-10.] On [REDACTED], Petitioner submitted her [REDACTED] bank account, her driver's license (residential address verification), and a utility bill. However, the Department did not receive verification of the [REDACTED] bank account. Therefore, the Department denied the application because of her failure to submit the [REDACTED] bank account. [Exhibit A, pp. 2-4.]

In response, Petitioner testified that she never received the verification requests (i.e., VCL and Verification of Assets). Petitioner did not dispute that the addresses listed on the verification requests were proper. She testified that recently a different mail carrier has been delivering her mail correspondence and she has been receiving other neighbor's mail. Thus, she inferred it was possible she did not get her verification requests because the mail carrier delivered it to another neighbor. It should also be noted that she testified that the [REDACTED] bank account closed approximately three years ago.

Additionally, on or about [REDACTED], she testified that she did find out she had to submit verifications after checking online via MI Bridges. She testified that she saw she had to submit the [REDACTED] account, but not the [REDACTED]. She described the MI Bridges screen as showing a list of the verifications she had to submit, but that she could also click on a link to give further details on the verification request. However, Petitioner testified she did not go further into the details of the verification because the screen she viewed had a list of what she had to submit, which she stated she did. On [REDACTED], Petitioner testified that she uploaded the requested verifications she saw (i.e., [REDACTED] bank) via MI Bridges.

In response to Petitioner's mailing issue, the Department testified that the verifications requests were sent via central print and they were not returned as undeliverable from the United States Postal Service (USPS).

Based on the foregoing information and evidence, the Department improperly denied Petitioner's FAP application effective [REDACTED], in accordance with Department policy.

First, Petitioner argued that she never received the verification requests (i.e., VCL or Verification of Assets) in the mail. The proper mailing and addressing of a letter creates a presumption of receipt which may be rebutted by evidence. *Stacey v Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976). In this case, the undersigned Administrative Law Judge (ALJ) finds that Department provided sufficient evidence to show that it sent Petitioner the verification requests to her proper address at the time and that these documents did not come back to the Department as undeliverable mail from the USPS. As such, it is found that Petitioner failed to rebut the presumption of proper mailing.

Second, despite Petitioner failing to rebut the presumption of proper mailing, the undersigned still finds that the denial of her application was improper. The undersigned finds that Petitioner made a reasonable effort to provide her verifications before the time period had elapsed. BAM 130, p. 7. Policy states that 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. Even though the Department argues that Petitioner failed to submit the [REDACTED] bank account by the due date, the evidence still established that she submitted her other requested verifications, [REDACTED] bank account, residential address, utility bill, prior to the due date. This evidence is persuasive to conclude that Petitioner made a reasonable effort to provide her verifications before the time period had elapsed.

Accordingly, because Petitioner made a reasonable effort to provide the verifications before the VCL due date, the Department improperly denied her application in accordance with Department policy. See BAM 130, p. 7. Therefore, the Department is ordered to re-register and reprocess Petitioner's FAP application dated [REDACTED], in accordance with Department policy.

### **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 improperly denied Petitioner's FAP application 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. Initiate re-registration and reprocessing Petitioner's FAP application dated [REDACTED].
2. Issue supplement to Petitioner for any FAP benefits she was eligible to receive but did not from [REDACTED], ongoing; and
3. Notify Petitioner of its decision.

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

**DHHS**

[REDACTED]

**Petitioner**

[REDACTED]  
[REDACTED]  
[REDACTED]

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