



RICK SNYDER  
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: April 13, 2017  
MAHS Docket No.: 17-003700  
Agency No.: ██████████  
Petitioner: ██████████

**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 three-way telephone hearing was held on April 13, 2017, from Detroit, Michigan. Petitioner represented himself for the hearing. The Department of Health and Human Services (Department) was represented by ██████████, Hearings Facilitator.

**ISSUE**

Did the Department properly deny Petitioner's Food Assistance Program (FAP) application effective January 13, 2017?

**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 or about January 13, 2017, Petitioner applied for FAP benefits.
2. Petitioner resides at the following permanent address: ██████████, ██████████. Exhibit A, p. 1.
3. Petitioner receives monthly Supplemental Security Income (SSI) benefits.
4. Petitioner's FAP group size is one.

5. On January 17, 2017, the Department sent Petitioner a Verification Checklist (VCL) requesting proof of heat expense, residential address, and home rent. The verifications were due back by January 27, 2017. Exhibit A, pp. 5-6.
6. On January 24, 2017, an interview was conducted with Petitioner to review his application and the following was reported during the interview: (i) he was aware of the verifications that needed to be provided; (ii) he stated he is disabled; and (iii) he has several caretakers, including his mother. Exhibit A, p. 1.
7. The Department did not receive the requested verifications by the due date.
8. On January 31, 2017, the Department sent Petitioner a Notice of Case Action notifying him that his FAP application was denied effective January 13, 2017 because he failed to submit verification of residential address and his case is eligible for zero benefit for month of application due to proration. Exhibit A, pp. 7-10.
9. On March 20, 2017, 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.

As a preliminary matter, the undersigned Administrative Law Judge (ALJ) approved Petitioner's request to participate in the hearing by telephone based on a good cause reason.

In the present case, the Department argued that it denied Petitioner's FAP application because he failed to return verification of his residential address. It should be noted that the Department also requested verification of his shelter expenses (heat expense and rent); however, he also failed to submit these verifications. But, Petitioner's failure to submit the shelter verifications does not result in a denial of an application. BEM 554 (January 2017), p. 14. Nevertheless, the Department argued that Petitioner still failed to

submit verification of his residential address, which resulted in the denial of the application. The undersigned disagrees with the denial of Petitioner's application.

To be eligible, a person must be a Michigan resident. BEM 220 (January 2016), p. 1. For FAP only, the Department verifies that the individual lives in the area your office serves. BEM 220, p. 6. However, do not deny benefits to an individual with no permanent address (e.g., new arrival, migrant, homeless) solely for lack of a verified address. BEM 220, p. 6. Note the lack of this verification and reason for it on the DHS-1171 or in case comments in Bridges. BEM 220, p. 6.

Based on the above policy, the Department argued that Petitioner failed to provide verification of his residence and therefore, the denial was proper. Petitioner did not dispute that the address listed in his application was his permanent address. At first glance, the undersigned agreed with the Department's interpretation of policy. But, the undersigned reviewed residence policy even further and discovered that under address verification sources, policy states that for FAP only, verification of residence is not needed for categorically eligible groups. BEM 220, p. 7. In the present case, Petitioner would fall under this exception policy of a categorically eligible FAP group because he receives SSI benefits. See BEM 213 (January 2016), p. 1. Thus, policy suggests that the Department should have never requested verification of his residence.

In response, the Department argued that its system showed that Petitioner had a discrepancy in his address. The Department testified that its system showed a different address for his Social Security benefits as compared to the address he reported in his application. Thus, due to the discrepancy in his address, the Department needed verification of his residence to revolve this difference. The undersigned again disagrees with the Department's argument.

Regarding application processing for categorically eligible groups, if questionable, verify that the group:

- Meets all of the group composition requirements; see BEM 212.
- Includes all persons who purchase and prepare food together in one FAP group, and
- Includes no persons who have been FAP disqualified for IPV, employment-related activity (only when the disqualified person is the head of household) and/or drug-related felony.

BEM 213, pp. 2-3. If categorically eligible, do not verify for FAP purposes:

- That the group's income is within gross and 100 percent net income limits.
- Social Security numbers.
- Sponsored alien information.
- Residency.

Note: Although the above eligibility factors are not verified for categorically eligible households, they must be verified if they are not verified by another program.

BEM 213, p. 3.

Based on the above information, categorical eligibility policy even states that the Department does *not* verify residency for FAP purposes. BEM 213, p. 3 (emphasis added). In fact, categorical eligibility policy has its own section that requires verification if something is questionable and this section does not include residency as a required verification when it is questionable, as the Department argues in this case. See BEM 213, pp. 2-3. As such, because Petitioner falls within the exception policy of a categorically eligible FAP group, the Department should have never requested verification of his residence in accordance with Department policy. See BEM 213, pp. 2-3 and BEM 220, p. 6.

Accordingly, the Department did not act in accordance with Department policy when it improperly denied Petitioner's FAP application effective January 13, 2017. The Department is ordered to reregister and reprocess his FAP application 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 January 13, 2017.


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 reregistration and reprocessing of Petitioner's FAP application dated January 13, 2017;
2. Issue supplements to Petitioner for any FAP benefits he was eligible to receive but did not from January 13, 2017, ongoing; and

3. Notify Petitioner of its decision.

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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

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CC: [REDACTED]  
[REDACTED]