



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: April 27, 2017  
MAHS Docket No.: 17-003927  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris**

### **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 [REDACTED], from Detroit, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Assistance Payments Worker. An [REDACTED] Interpreter, [REDACTED], appeared as a translator for the Petitioner.

### **ISSUE**

Did the Department properly close the Petitioner Food Assistance Program (FAP) and Medical Assistance (MA) benefits?

### **FINDINGS OF FACT**

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Petitioner was an ongoing recipient of FAP and MA benefits.
2. The Department issued a Health Care Coverage Determination Notice on [REDACTED], closing the Petitioner's MA case, effective [REDACTED], because a group member did not meet program requirements and for failure of the Petitioner to verify or allow the Department to verify information necessary to determine eligibility. [Exhibit F]

3. The Department issued a Notice of Case Action on [REDACTED], closing the Petitioner's FAP case effective [REDACTED], because a group member did not meet program requirements and for failure of the Petitioner to verify or allow the Department to verify information necessary to determine eligibility. [Exhibit E]
4. The Department did not request any verifications or issue any Verification Checklist to the Petitioner prior to the issuance of the Notices closing the FAP and MA cases.
5. The Department conducted a Front-End FEE investigation when the Petitioner provided a rental agreement indicating that the rent Petitioner paid was \$ [REDACTED] [Exhibit A.] The Department could not determine how the rent was paid as the only checking account provided indicated a deposit of \$ [REDACTED] and Petitioner's son's Supplemental Security Income (SSI) was \$ [REDACTED] and was not accounted for. [Exhibit C] and Hearing Summary. The Front-End FEE Investigation Report was not admitted into evidence.
6. The Department closed the Petitioner's MA and FAP based upon the FEE investigation findings.
7. The Petitioner requested a timely hearing on [REDACTED], protesting the Department's actions.

### **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.

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

In this case, the Department issued two Notices to the Petitioner closing the Petitioner's FAP and MA cases due to ineligibility and failure to verify information. [Exhibit E and F] The Department presented no evidence that it had requested verification of information regarding checking accounts, group income sources and whether the Petitioner's husband was residing in Michigan at any time prior to the closure of the Petitioner's MA and FAP cases. A front-end FEE investigation was conducted and resulted in case closure. The notes of the investigation and notes of a meeting with the Petitioner were presented by the Department and marked Exhibit D, and were not admitted by the undersigned as the Department's representative at the hearing was not present at the FEE Investigation meeting between the Investigator and Petitioner and had no personal knowledge of what occurred at the meeting. BAM 600 provides that both the local office and the client must have adequate opportunity to present the case, refute evidence, cross examine adverse witnesses, and cross examine the author of a document offered in evidence. BAM 600, (October 1, 2016), pp. 36-37. In this case, the FEE Investigation Report was not admitted in evidence as there was no witness with personal knowledge of the facts who could testify as to the report's accuracy, and the oral testimony of the Department representative at the hearing as to the reports contents would not have supported fairness to both sides in this matter because she was not present at the investigation meeting and had no personal knowledge of the investigation findings.

The Department testified that the case closed based on the results of the FEE investigation. After the FEE investigation meeting, the Department did not seek any verification of information.

MDHHS may prevent overissuances by referring questionable information to the OIG Front-End Eligibility (FEE) agent for investigation. BAM 700 (October 1, 2016), p. 4

The undersigned could find no authority in Department policy that provides for case closure after a FEE investigation. Clearly the Department may close a case due to a recipient's failure to verify information. Department policy provides:

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of necessary forms; see Refusal to Cooperate Penalties in this item.

Clients must completely and truthfully answer all questions on forms and in interviews.

The client might be unable to answer a question about himself or another person whose circumstances must be known. Allow the client at least 10 days (or other timeframe specified in policy) to obtain the needed information.

### **MA Only**

Refusal to provide necessary eligibility information or to cooperate with a QC review results in ineligibility for:

- The person about whom information is refused, **and**
- That person's spouse if living in the home, **and**
- That person's unmarried children under 18 living in the home. BAM 105, (October 1, 2016) pp. 9-10.

In this case, the Department issued no requests for verification of income and bank accounts when it determined that there was an apparent income shortfall because a rent change reported rent of \$ [REDACTED] a month rent; and the bank account did not have income deposits to cover the rent. In addition, the Petitioner's son's RSDI was not accounted for. Lastly, the Department believed that Petitioner's spouse was absent from the household such that he was no longer living in the household. The Petitioner is not English speaking, and all communication must be done through an interpreter/translator. The Petitioner did file an application for FAP and MA on [REDACTED] [REDACTED] [Exhibit B]

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements.

Verification is usually required at application/redetermination **and** for a reported change affecting eligibility or benefit level.

**Tell the client what verification is required, how to obtain it, and the due date; see Timeliness of Verifications in this item. Use the DHS-3503, Verification Checklist (VCL), to request verification. BAM 130 (10/1/16) p. 3 (Emphasis supplied).**

In this case, the Department failed to seek any verification of the information regarding the bank accounts, income sources and where the RSDI for Petitioner's child is deposited. Notwithstanding, no verifications were requested; the Department closed the FAP case and MA case for specifically failing to verify the information. The Department was required to obtain this information by VCL; and no evidence was presented that it did so, and no VCL was issued. Therefore, the Department did not properly close the Petitioner's FAP case nor MA case for failure to provide this information.

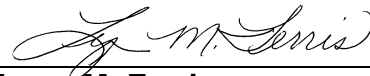
### **DECISION AND ORDER**

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 closed the Petitioner's FAP and MA case due to failure to verify information.

Accordingly, the Department's 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. The Department shall reinstate the Petitioner's FAP and MA case as of the closure date.
2. The Department shall issue an FAP supplement to the Petitioner for FAP benefits Petitioner is otherwise eligible to receive, if any, in accordance with Department policy.



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**Lynn M. Ferris**  
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]  
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