



RICK SNYDER  
GOVERNOR

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

SHELLY EDGERTON  
DIRECTOR

[REDACTED]  
[REDACTED]  
[REDACTED]

Date Mailed: April 23, 2018  
MAHS Docket No.: 18-002676  
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; 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 three-way hearing was held on April 18, 2018, from Detroit, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Eligibility Specialist.

**ISSUE**

Did the Department properly close the Petitioner's Food Assistance (FAP) 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. The Petitioner was an ongoing recipient of FAP benefits.
2. The Department sent the Petitioner a redetermination dated January 4, 2018 due to be returned to the Department on January 24, 2018. Exhibit 1.
3. The Petitioner timely returned the redetermination and completed an interview.
4. The Department issued a Verification Checklist on February 1, 2018 due February 12, 2018. The Petitioner returned the requested information except for earnings for [REDACTED] and her savings account statement. Exhibit 5.
5. The Petitioner returned additional documents with her hearing request which were not presented or reviewed by the Department. Exhibit 4.

6. The Department sent a Notice of Case Action on February 27, 2018 closing the Petitioner FAP benefit case effective March 1, 2018. Exhibit 2.

### 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.

In this case, the Department sent a redetermination which was timely completed and submitted by the Petitioner and a telephone interview was held. The Department sent a verification checklist to Petitioner on February 1, 2018 which was due February 12, 2018 requesting additional information as a result of the redetermination interview. The Petitioner recalled the interview and that she needed to provide additional information regarding her savings account and regarding one of her employers, [REDACTED] Exhibit 5. The Department did not receive the savings account statement or the pay stubs or other verification of income for [REDACTED] employment. The Petitioner conceded that she did not return either item. The Department is required to review benefit eligibility and does so by completing a redetermination. In this case the benefits reviewed were FAP benefits. Department policy provides the following:

A complete redetermination/renewal is required at least every 12 months. Bridges sets the redetermination/renewal date according to benefit periods; see Eligibility Decisions in BAM 115. Benefits stop at the end of the benefit period **unless** a redetermination is completed **and** a new benefit period is certified. If the client does not begin the redetermination process, allow the benefit period to expire. BAM 201 (January 2018), p. 3.

**Note:** For FAP only, if the client contacts the department prior to the due date requesting an extension or assistance in obtaining verifications, assist the client with the verifications but do not grant an extension. Explain to the client they will not be given an extension and their case will be denied once the VCL due date is passed. Also, explain their eligibility will be determined based on their compliance date if they return required verifications. Re-

register the application if the client complies within 60 days of the application date; see BAM 115, Subsequent Processing.

Only **adequate** notice is required for an application denial. **Timely** notice is required to reduce or terminate benefits.

**Exception:** 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.

Verifications are considered to be timely if received by the date they are due. For electronically transmitted verifications (fax, email or Mi Bridges document upload), the date of the transmission is the receipt date. 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.

Send 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 (April 2017), pp. 7-8.

### **FAP Only**

Verifications must be provided by the end of the current benefit period **or** within 10 days after they are requested, whichever allows more time. If the tenth day falls on a weekend or holiday, the verification will not be due until the next business day.

**Note:** The DHS-3503, Verification Checklist, should be sent after the redetermination interview for any missing verifications allowing 10 days for their return. BAM 210 (January 2018), p. 17.

During the hearing the Petitioner conceded that she did not return as the verification checklist items which included pay stubs for her employment with PESG and did not

return her savings account statement, both of which were listed on her completed redetermination form. The Redetermination form required that Petitioner provide proof of her income from employment which included income from PESG. After the redetermination interview, the Petitioner was sent a Verification Checklist (VCL) on February 1, 2017 to her correct new address. The Petitioner was unsure if she received the VCL however, she was advised about the missing information at her redetermination interview. In addition, the proper mailing and addressing of a letter creates a presumption of receipt. That presumption 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). Although the Petitioner was at a new address, there was no information provided that would indicate that she had trouble with her mail which would rebut the presumption of mail receipt.

Based upon the evidence provided at the hearing it is determined that the Department properly closed the Petitioner's FAP case for failure to return proof of income for [REDACTED] and her bank account information at the time she completed the redetermination and by the verification due date of February 12, 2018. The Petitioner did concede that she did not provide the information and did not do so by the end of the certification period, February 28, 2018 and thus her FAP benefits closed. However, the Petitioner did provide documents to the Department on March 5, 2018 via fax which were noted on the Electronic Case File on March 5, 2018 which were not reviewed at the hearing. However, based upon policy in BAM 210, regarding subsequent processing, the following requirement applies:

If a client files an application for redetermination before the end of the benefit period, but fails to take a required action, the case is denied at the end of the benefit period. Proceed as follows if the client takes the required action within 30 days after the end of the benefit period:

- Re-register the redetermination application using the date the client **completed** the process.
- If the client is eligible, prorate benefits from the date the redetermination application was registered. BAM 210, p. 21-22. (emphasis supplied).

The Department did not present any documents filed by the Petitioner on March 5, 2018 at the hearing, thus it cannot be determined whether the Department was required to perform subsequent processing based upon the information provided by Petitioner on March 5, 2018 per BAM 210. Because the documents were filed at the time the Petitioner requested a hearing, also received via fax on March 5, 2018, the issue of whether subsequent processing is required can be considered as the Petitioner's actions were done at the time of the hearing request and should be considered for subsequent processing. Therefore, it is determined that the Department must review

the Petitioner's documents to determine if the requirement of subsequent processing of information would require the Department to re-register the redetermination if in fact Petitioner completed the process and provided the information in that submittal for the missing items. In this regard, the Department did not meet its burden to demonstrate compliance with Department policy referenced above regarding subsequent processing of a redetermination.

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 correctly closed the Petitioner's FAP case for failure to provide verifications, but also failed to satisfy its burden of showing that it acted in accordance with Department policy when it did not determine based upon documents provided by Petitioner whether she had satisfied the outstanding verification information to be provided making her FAP case eligible for reinstatement.

### **DECISION AND ORDER**

Accordingly, the Department's decision is **AFFIRMED** with respect to FAP closure due to Petitioner's failure to timely complete and return the verifications for the redetermination and is,

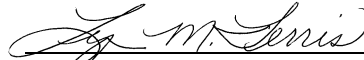
**REVERSED**, with respect to whether subsequent processing of the redetermination is required.

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 review the information provided to the Department via Fax on March 5, 2018 by the Petitioner to determine if the outstanding verification checklist information regarding [REDACTED] and bank savings account statement was provided and determine if the Petitioner's FAP case meets the requirements for subsequent processing. If the requirements were met the Department shall re register the redetermination application if appropriate and in accordance with Department policy.
2. If the Department determines that the requirements for subsequent processing were met by Petitioner's submission the Department shall also determine if a FAP supplement is required, if any, in accordance with Department policy.

3. The Department shall provide the Petitioner written notice regarding whether subsequent processing of the redetermination was required or not required, based upon the March 5, 2018 documentation filed by the Petitioner.

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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

DHHS

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