



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
LANSING

SHELLY EDGERTON  
DIRECTOR



Date Mailed: June 14, 2018  
MAHS Docket No.: 18-004438  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Colleen Lack

**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 hearing was held on June 5, 2018, from Lansing, Michigan. [REDACTED], Petitioner, appeared on her own behalf. The Department of Health and Human Services (Department) was represented by Markita Blyden, Eligibility Specialist (ES).

During the hearing proceeding the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-11.

**ISSUES**

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefits based on a failure to return a mid-certification form or required information?

Did the Department properly determine Petitioner's eligibility for FAP benefits for the April 2018, application?

**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 a recipient of FAP benefits.
2. On February 1, 2018, a Mid-Certification Contact Notice was issued to Petitioner with a due date of March 1, 2018. (Exhibit A, pp. 3-5)

3. On March 10, 2018, a Notice of Potential FAP Closure was issued to Petitioner stating the FAP case would close effective March 31, 2018, because she had not returned the mid-certification form or required information. It was stated that without this form and required information FAP benefits could not be issued for the next month. (Exhibit A, p. 6)
4. On March 13, 2018, Petitioner contacted the Department, notified them of an address change, and requested a copy of the Mid-Certification Contact form because she knew it was about time for a review and she had not received the usual paperwork. Petitioner moved March 1, 2018. (Exhibit A, p. 1; Petitioner Testimony)
5. The Department did not receive a completed Mid-Certification Contact form from Petitioner. (ES Testimony)
6. Petitioner's FAP case closed effective March 31, 2018.
7. On April 10, 2018, the Department advised Petitioner to re-apply for FAP. (ES Testimony)
8. On or about April 26, 2018, Petitioner re-applied for FAP. (Exhibit A, p. 1; ES Testimony)
9. The Department received verification of Petitioner's new shelter expense at least as of the time of her re-application for FAP. (ES Testimony)
10. On April 30, 2018, the Department issued a Notice of Case Action to Petitioner stating she was approved for FAP, with a \$0.00 monthly allotment for April 27-30, 2018, and a \$72.00 monthly allotment for the period of May 1, 2018, through March 31, 2020. (Exhibit A, pp. 8-11)
11. On April 30, 2018, the Department received Petitioner's request for a hearing contesting the FAP determinations. (Exhibit A, p. 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.

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of necessary forms. Bridges Administrative Manual (BAM) 105 (January 1, 2018), p. 9.

The Department must periodically re-determine or renew an individual's eligibility for active programs. The redetermination/renewal process includes thorough review of all eligibility factors. Redetermination, renewal, semi-annual and mid-certification forms are often used to re-determine eligibility of active programs. BAM 210 (January 1, 2018), p. 1.

For FAP, 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, benefit period is allowed to expire. BAM 210 (January 1, 2018), p. 3.

A notice of case action is not sent when the FAP certification period has expired and redetermination application was not filed. BAM 220 (January 1, 2018), p 5.

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. The Department is to obtain verification when it is required by policy, required as a local office option, or information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. BAM 130 (April 1, 2017), p. 1.

When determining the initial FAP benefits for a new application, the Department will automatically prorate initial benefits when prorated benefits are required based on the date eligibility begins. BAM 406 (July 1, 2013), p. 1.

When determining the amount of prorated benefits for a partial month:

It is not necessary for the specialist to compute the initial benefit amount. Initial benefits will be determined by Bridges based on the input of monthly data begin code and begin date for the case. If an initial benefit amount is needed for emergency issuance, it can be obtained at the time of the Bridges entry.

If benefits require proration and Bridges is not accessible, use the following formula: Multiply the monthly benefits by the number of days remaining in the month including the application date. Divide this amount by the total number of days in the month. Drop cents. If the amount is less than

\$10.00, the FAP group will not receive an initial benefit. (This applies to initial benefits only.)

Bridges Eligibility Manual (BEM) 556 (July 1, 2013), p. 6.

In calculating the FAP budget, the Department considers unearned income, which includes Social Security Administration (SSA) issued benefits as well as the state supplement to the SSA benefits. BEM 503, July 1, 2017, pp. 31-32 and 35-37)

In calculating the FAP budget, the Department considers shelter expenses, which would include rent. BEM 554 (August 1, 2017), p.13.

In this case, there are two FAP case actions at issue, the closure of the prior FAP case and the eligibility determination regarding the April 2018, FAP application.

### FAP Closure

Regarding the FAP closure action, a Mid-Certification Contact Notice was issued to Petitioner on February 1, 2018, with a due date of March 1, 2018. (Exhibit A, pp. 3-5) On March 10, 2018, a Notice of Potential FAP Closure was issued to Petitioner stating the FAP case would close effective March 31, 2018, because she had not returned the mid-certification form or required information. It was stated that without this form and required information, FAP benefits could not be issued for the next month. (Exhibit A, p. 6) Petitioner confirmed that the address the February 1, 2018, Mid-Certification Contact Notice was sent to was correct at that time. (Exhibit A, p. 3; Petitioner Testimony) However, Petitioner asserted that she was not getting mail at her old address because some stuff started because her landlord died right after her daughter's death (June 9, 2017), they started going through court and stuff, and somehow there was a misunderstanding that Petitioner was trying to put someone out. (Petitioner Testimony) Further, while Petitioner moved on March 1, 2018, she did not report her address change until March 13, 2018. (ES and Petitioner Testimony) Accordingly, the March 10, 2018, Notice of Potential FAP Closure was properly mailed to Petitioner's prior address because that was still the address of record with the Department.

Petitioner's testimony asserted that on March 13, 2018, when she contacted the Department and notified them of the address change, she also requested a copy of the Mid-Certification Contact form, because she knew it was about time for a review and she had not received the usual paperwork. Petitioner further asserted that the Department re-sent the Mid-Certification Contact form to her prior address. However, Petitioner also testified that she brought verification of her shelter expense to the Department office in March 2018, at the same time as the ES re-sending the Mid-Certification Contact form. Then when she got the light bill, Petitioner returned to the local Department office to provide verification of her utility expenses. (Petitioner Testimony) Even if Petitioner did not receive the re-mailed Mid-Certification Contact form, it is unclear why Petitioner would not have obtained another copy and completed the Mid-Certification Contact form while she was at the Department office in March 2018

dropping off the shelter and utility verifications as Petitioner knew the Mid-Certification Contact form was also needed.

Petitioner also testified that she had conversations with the Supervisor, who told her he would fix the case and she should not worry about it. However, those conversations did not occur until after Petitioner filed her first hearing request on April 25, 2018. Petitioner subsequently withdrew that hearing request. Petitioner re-applied for FAP as she had been advised to do by the ES. Petitioner then filed the April 30, 2018, hearing request. (Petitioner Testimony).

Ultimately, the Department did not receive a completed Mid-Certification Contact form from Petitioner in March 2018. (ES Testimony) Therefore, in accordance with the above cited BAM 105, 210, and 220 polices, a redetermination could not be completed, a new benefit period could not be certified, and Petitioner's FAP benefit period was allowed to expire. The closure of Petitioner's FAP case effective March 31, 2018, was in accordance with Department policy and must be upheld.

#### Eligibility for the April 2018, FAP application

Regarding the eligibility determination for the April 2018, FAP application, the Budget Summary contained on the April 30, 2018, Notice of Case Action was reviewed with Petitioner. No housing cost was included in the budget summary. (Exhibit A, p. 9) Petitioner credibly testified that she had a shelter cost. (Petitioner Testimony) The Eligibility Specialist's later testimony indicated that Petitioner submitted verification of her shelter and utility expenses when she re-applied for FAP. (ES Testimony) Accordingly, there was sufficient credible evidence that Petitioner provided the Department with verification of her shelter expense prior to the April 30, 2018, determination.

There was also a discrepancy regarding Petitioner's income. Petitioner testified she receives SSA administered benefits of \$632.00 and \$103.00 on two different cards each month and the quarterly supplement from the state of \$42.00. (Petitioner Testimony) The Department budgeted \$784.00 for unearned income. (Exhibit A, p. 9) The ES testified this was verified by a SOLQ report. (ES Testimony) However, neither party provided documentation of the asserted income amounts.

Lastly, the correct application date is unclear. The Department's Hearing Summary and the testimony of the ES indicated Petitioner re-applied for FAP on April 26, 2018. (Exhibit A, p. 1; ES Testimony) However, the April 30, 2018, Notice of Case Action starts the prorated period for April 2018, FAP benefits on April 27, 2018. (Exhibit A, p. 8)

Overall, the April 30, 2018, eligibility determination for Petitioner's April 2018, FAP application cannot be upheld. The Department failed to include Petitioner's verified shelter expense in this budget. There also may have been an error regarding the income amount included in this budget. This could have affected the calculation of the

amount of FAP benefits Petitioner was potentially eligible for, which in turn could affect whether any FAP benefits would be issued for the month of April 2018, which is prorated based on the application date.

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 acted in accordance with Department policy when it closed Petitioner's prior FAP case based on a failure to return a mid-certification form or required information; and did not act in accordance with Department policy when it determined Petitioner's eligibility on April 30, 2018, for the April 2018, FAP application.

### **DECISION AND ORDER**

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to the FAP closure and **REVERSED IN PART** with respect to the April 30, 2018, eligibility determination for the April 2018, FAP application.

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. Re-determine Petitioner's eligibility for the April 2018, FAP application in accordance with Department policy.
2. Issue written notice of the determination in accordance with Department policy.
3. Supplement for lost benefits (if any) that Petitioner was entitled to receive, if otherwise eligible and qualified in accordance with Department policy.

CL/bb



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**Colleen Lack**  
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) 763-0155; 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**

LaClair Winbush  
17455 Grand River Ave  
Detroit, MI 48227

Wayne County (District 31), DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

**Petitioner**

[REDACTED]  
MI