



RICK SNYDER  
GOVERNOR

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

SHELLY EDGERTON  
DIRECTOR

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Date Mailed: June 11, 2018  
MAHS Docket No.: 18-004558  
Agency No.: ██████████  
Petitioner: ██████████

**ADMINISTRATIVE LAW JUDGE:** Christian Gardocki

**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 June 4, 2018, from Detroit, Michigan. Petitioner appeared and was represented by ██████████ who also participated as an ██████████ translator. The Michigan Department of Health and Human Services (MDHHS) was represented by Haysem Hosny, hearing facilitator.

**ISSUES**

The first issue is whether MDHHS properly denied Petitioner's Food Assistance Program (FAP) eligibility.

The second issue is whether MDHHS properly denied Petitioner's Medical Assistance (MA) eligibility.

**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 February 22, 2018, Petitioner applied for FAP and MA benefits.
2. On March 13, 2018, MDHHS mailed Petitioner a Verification Checklist requesting verifications of a bank account closure from 2013 and of a lien on Petitioner's vehicle. The VCL due date was 3/23/18.
3. On March 13, 2018, MDHHS denied Petitioner's MA application because Petitioner was not pregnant, under 21 years of age, or disabled.

4. On various dates, Petitioner's authorized representative called MDHHS requesting assistance with verifying bank account closure.
5. On March 23, 2018, MDHHS denied Petitioner's FAP eligibility due to a failure to verify a bank account closure from 2013 and of a lien on Petitioner's vehicle
6. On April 24, 2018, Petitioner requested a hearing to dispute the denial of FAP and MA benefits.
7. On April 26, 2018, MDHHS received verification of the bank account closure at issue.

### **CONCLUSIONS OF LAW**

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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing, in part, to dispute the denial of a FAP application. MDHHS presented a Notice of Case Action (Exhibit A, pp. 1-4) dated March 23, 2018. Which stated that Petitioner's FAP eligibility was denied due to Petitioner's failure to verify the closure of a bank account and/or amount owed on a vehicle. (Exhibit A, pp. 1-4)

[For all programs, MDHHS is to tell...] the client what verification is required, how to obtain it, and the due date... BAM 130 (April 2017) p. 3. Use the DHS-3503, Verification Checklist (VCL), to request verification. *Id.* Allow the client 10 calendar days (or other time limit specified in policy) to provide the verification that is requested. *Id.*, p. 7. 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. *Id.*

The requirement to "allow the client 10 calendar days" to return verification is interpreted to require MDHHS to wait 10 full days before denying an application. This interpretation is consistent with MDHHS policy stating that clients seeking an extension should be assisted in obtaining verifications and informed that their case will be denied "once the VCL due date is passed". BAM 130 (April 2017), p. 6. A due date cannot pass until at least the 11<sup>th</sup> day from the date of VCL mailing.

An application denial based on a failure to verify can only be proper if a verification required for processing was requested. In the present case, both alleged Petitioner failures to verify involved assets. MDHHS policy states, "Assets must be considered in determining eligibility for FAP." BEM 400 (January 2018) p. 1. \

### **Application denial based on a closed bank account**

Concerning the denial based on a closed bank account, MDHHS contended that consideration of assets includes requests for closed bank accounts. The MDHHS contention is questionable, though it will be accepted for purposes of this decision.

MDHHS requested Petitioner's bank account information on March 13, 2018, MDHHS did not present the VCL but it is presumed to have included a due date of 3/23/18 (10 days from the date of mailing). MDHHS denied Petitioner's application on the due date of verification. MDHHS failure to wait for the passage of the due date renders the denial to be improper. This consideration supports reversing the denial of Petitioner's FAP eligibility.

Further, Petitioner's authorized hearing representative testified he was Petitioner's representative throughout the application process. He testified that he contacted Petitioner's specialist on multiple occasions to inform MDHHS that he was unable to initially obtain verification of a 5-year-old, closed bank account. He also testified that MDHHS failed to provide a DHS-20 which might have allowed him to obtain verification sooner. Petitioner's representative's testimony implied that he requested assistance from MDHHS but failed to receive it. Under the circumstances, MDHHS should have either assisted Petitioner with obtaining verification by calling Petitioner's former bank and/or providing Petitioner with the proper verification form. Alternatively, MDHHS could have accepted Petitioner's statement that the bank account was closed as the best evidence of verification (see BAM 130). Instead, MDHHS denied Petitioner's application on the 10<sup>th</sup> day after requesting verification. MDHHS' failure to assist is further grounds for reversal of the application denial. Based on MDHHS' failure to assist Petitioner by providing a DHS-20, failure to assist Petitioner in obtaining verification, and/or denying Petitioner's application prematurely, the denial of Petitioner's application based on a failure to verify a closed bank account was improper.

MDHHS also contended that Petitioner's application was properly denied because Petitioner failed to verify a lien on a vehicle. MDHHS contended that the lien was relevant because a lien affects vehicle value and vehicle value of vehicles is relevant to a FAP determination.<sup>1</sup>

MDHHS indicated that Petitioner submitted a vehicle title which showed a lien. Petitioner's representative testified that Petitioner's vehicle did not have a lien. Whether Petitioner's vehicle had a lien or not is immaterial to the denial. If Petitioner failed to verify that a vehicle had a lien, MDHHS' recourse was not to deny the application.

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<sup>1</sup> For FAP benefits, MDHHS sets a limit of \$15,000 for countable vehicles. BEM 400 (January 2018) p. 38.

Instead, MDHHS should have determined the value of Petitioner's vehicle without factoring a lien. Such a procedure is consistent with client failures to verify expenses in which MDHHS is to process the application without giving the client credit for the expense, but not to deny the application (see BEM 554). It is found that MDHHS improperly denied Petitioner's FAP application based on a failure to verify a vehicle lien.

As both of MDHHS' reasons justifying FAP denial were improper, MDHHS will be ordered to reregister and reprocess Petitioner's FAP eligibility. In reprocessing Petitioner's application, MDHHS should need not again request disputed verifications. MDHHS acknowledged that verification of the closed bank account was received on April 26, 2018; under the circumstances of the present case, Petitioner's submission was timely. Petitioner testimony acknowledged there was no lien on her vehicle. MDHHS' reprocessing will incorporate these considerations.

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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

HMP is a health care program administered by the Michigan Department of Community Health, Medical Services Administration. The program is authorized under the Affordable Care Act of 2010 as codified under 1902(a)(10)(A)(i)(VIII) of the Social Security Act and in compliance with the Michigan Public Act 107 of 2013. HMP policies are found in the Medicaid Provider Manual and Modified Adjusted Gross Income Related Eligibility Manual (MAGIM).

Petitioner also requested a hearing to dispute a denial of MA benefits. MDHHS did not address Petitioner's dispute in their written summary. During the hearing, MDHHS testified that a Health Care Coverage Determination Notice was mailed to Petitioner on March 13, 2018. MDHHS testimony indicated that Petitioner's MA eligibility was denied because she was neither pregnant, 21 years of age, or disabled.

HMP is an MA category for persons who are neither disabled, under 21, nor pregnant. BEM 137 (January 2018) p. 1. Thus, MDHHS could not have properly denied Petitioner for HMP for the reasons stated.

Also notable is that HMP has no asset test (see *Id.*) Thus, MDHHS could not have properly denied MA benefits to Petitioner for the same reasons alleged to justify Petitioner's denial of FAP benefits.

Given the evidence, MDHHS failed to establish a proper denial of Petitioner's MA application. MDHHS will be also be ordered to reregister and process Petitioner's application for MA benefits.

### **DECISION AND ORDER**

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly denied Petitioner's application for FAP and MA benefits. It is ordered that MDHHS begin to perform the following actions within 10 days of the date of mailing of this decision:

- (1) Reregister Petitioner's application dated February 22, 2018; and
- (2) Initiate processing of Petitioner's application subject to the following findings:
  - a. Petitioner timely verified a bank account closure;
  - b. Petitioner's vehicle did not have a lien; and
  - c. MDHHS provided no valid basis for denying Petitioner's MA eligibility

The actions taken by MDHHS are **REVERSED**.

CG/



**Christian Gardocki**

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**

Vivian Worden  
MDHHS-Macomb-36-Hearings

**Petitioner**

[REDACTED]  
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**Authorized Hearing Rep.**

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