



RICK SNYDER  
GOVERNOR

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

SHELLY EDGERTON  
DIRECTOR

[REDACTED]  
[REDACTED]  
[REDACTED] MI [REDACTED]

Date Mailed: July 9, 2018  
MAHS Docket No.: 18-005556  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**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 July 9, 2018, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Darrin McMurtry, supervisor, and Heather Oleszkowicz, specialist.

**ISSUE**

The issue is whether MDHHS properly denied Petitioner's request for Food Assistance Program (FAP) replacement 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. At all relevant times, Petitioner was an ongoing FAP recipient.
2. On or near April 19, 2018, Petitioner contacted her energy service provider for a letter verifying that she had a power outage.
3. On May 10, 2018, Petitioner submitted to MDHHS a Food Replacement Affidavit (Exhibit A, p. 3) and a letter from her energy provider stating that Petitioner had a power outage from April 15, 2018 – April 18, 2018 (Exhibit A, p. 2).
4. On May 16, 2018, MDHHS denied Petitioner's request for FAP benefit replacement. (Exhibit A, p. 4)

5. On May 22, 2018, Petitioner requested a hearing to dispute the denial of FAP benefit replacement.

### 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 to dispute a denial of FAP benefit replacement. MDHHS presented a Benefit Notice (Exhibit A, pp. 4-5) dated May 16, 2018. The notice informed Petitioner that her request for FAP benefit replacement was denied because she failed to report to MDHHS the need for FAP replacement within 10 days.

FAP recipients may be issued a replacement of benefits when food purchased with FAP benefits has been destroyed in a domestic misfortune or disaster and it is reported timely. Replacements and reauthorizations are processed **only** if the client reports the loss timely. Timely means within 10 days if the loss is due to domestic misfortune or disaster. BAM 502 (July 2017), p. 1.


Petitioner's power outage ended on April 18, 2018. MDHHS first learned of Petitioner's need for FAP benefit replacement on May 10, 2018, after receiving Petitioner's affidavit and accompanying letter from her energy services provider. Thus, Petitioner reported the need for FAP benefit replacement to MDHHS approximately 22 days after her power services were restored.

Petitioner testified that she learned from the news that she would need a letter from her energy service provider before FAP benefit replacement would be issued. Petitioner waited to report to MDHHS her need of FAP replacement until she first obtained written verification of her power outage from her energy service provider. Petitioner also testified that her energy service provider negligently delayed receipt of the letter by mailing the letter to an incorrect address. Petitioner's sincere and corroborated testimony (see Exhibit 1, pp. 1-2) does not change that MDHHS requires reporting the need for FAP replacement within 10 days of the corresponding misfortune or disaster. MDHHS' 10-day deadline is unequivocal and provides for no exceptions. Petitioner did not meet the deadline through no fault of MDHHS. Thus, MDHHS properly denied Petitioner's request for FAP benefit replacement.

**DECISION AND ORDER**

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly denied Petitioner's Food Replacement Affidavit dated May 10, 2018. The actions taken by MDHHS are **AFFIRMED**.

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**

Lori Duda  
MDHHS-Oakland 2-Hearings

**Petitioner**

[REDACTED]  
[REDACTED]  
[REDACTED] MI [REDACTED]

BSC4  
M Holden  
D Sweeney  
C Gardocki  
MAHS