



RICK SNYDER  
GOVERNOR

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

SHELLY EDGERTON  
DIRECTOR

[REDACTED]  
[REDACTED]  
[REDACTED]

Date Mailed: July 9, 2018  
MAHS Docket No.: 18-005604  
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 telephone hearing was held on July 9, 2018, from Detroit, Michigan. The Petitioner was represented by himself. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator.

**ISSUE**

Did the Department properly deny the Petitioner's Food Benefit Replacement 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. On April 19, 2018 the Petitioner notified the Department that he had lost food due to a power outage and requested Food Replacement benefits.
2. The Department sent the Petitioner a Food Replacement Affidavit on April 19, 2018. Exhibit C.
3. The Department received a completed Food Replacement Affidavit from Petitioner on May 3, 2018. The Affidavit Form DHS 601 states that: "this completed form must be received by the local office by the 10<sup>th</sup> day following the day I first report the loss to my specialist. If the 10<sup>th</sup> day falls on a weekend or holiday, it must be received by the next business day". Exhibit C.

4. The Department received the Petitioner's completed form on May 3, 2018 and determined the form was not received within 10 days of reporting the food loss. Exhibit C.
5. The Department sent a Benefit Notice to the Petitioner on May 8, 2018 advising that he was determined not eligible for FAP Replacement because the DHS 601 Food Replacement Affidavit was not submitted by the 10<sup>th</sup> Day. Exhibit A.
6. The Petitioner requested a timely hearing on May 23, 2018 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.

In this case, the Department denied the Petitioner's Food Replacement Affidavit in support of his application for Food Replacement assistance due to a power outage. Unfortunately, the Department received the Affidavit after the 10<sup>th</sup> day from the reporting of the loss. As explained by the Department, the form was mailed to Petitioner on the 19<sup>th</sup> and was due on April 29, 2018 which was a weekend day, (Sunday) and thus was due on Monday, April 30, 2018. The Department did not receive and scan the document until May 3, 2018 and thus denied the request for Food Replacement because it was late.

The Department further testified that the Petitioner was told by the caseworker when he reported the claim that the form had to be received within 10 days from the claim date, April 19, 2018, and the Food Replacement Affidavit also states the same requirement. Unfortunately, some rules are strict as is the case with receiving the Affidavit which was not received timely by the Department. The Petitioner signature appears on the Affidavit for April 23, 2018 but he did not personally mail the form and testified that he had someone else mail it. The Department case notes indicate that the Petitioner called the Department caseworker on May 2, 2018, who told the Petitioner that the form had not been received. The form was received by the Department the next day, May 3,

2018. Exhibit B. The Petitioner did not testify as to the actual mail date. The Petitioner unfortunately, relied on the mail service rather than faxing the document or delivering it in person to the Department and signing the log that he delivered it. Based upon the facts and testimony presented the Department properly denied the food replacement request because it was received after the 10 day deadline. BAM 502 (July 2017), p. 1,

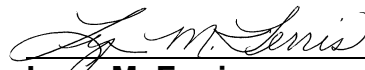
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it denied the Petitioner's request for Food Replacement,

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### **DECISION AND ORDER**

Accordingly, the Department's decision is **AFFIRMED**.

LF/tm



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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) 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**

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

**Petitioner**

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

**cc:**

[REDACTED]  
[REDACTED]