



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
LANSING

SHELLY EDGERTON  
DIRECTOR

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Date Mailed: August 31, 2018  
MAHS Docket No.: 18-007034  
Agency No.: ██████████  
Petitioner: ██████████

**ADMINISTRATIVE LAW JUDGE:** John Markey

**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 August 9, 2018, from Lansing, Michigan. Petitioner appeared and represented by herself. The Department of Health and Human Services (Department) was represented by Corlette Brown, Hearing Facilitator.

**ISSUE**

Did the Department properly deny Petitioner's application for Food Assistance Program (FAP) benefits based on Petitioner's alleged failure to return required verifications?

Did the Department properly close Petitioner's Medicaid (MA) case based on Petitioner's alleged failure to return required verifications?

**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 an ongoing MA beneficiary under the Healthy Michigan Plan (HMP).
2. On ██████████, 2018, Petitioner applied for FAP benefits.
3. On May 2, 2018, the Department issued a Verification Checklist, Form 3503, to Petitioner requiring Petitioner to provide a bank statement showing her balance for Credit Union One Bank. Petitioner was required to return the verifications by

May 14, 2018. Petitioner was warned that failure to do so could result in the denial of Petitioner's FAP benefits application.

4. On May 25, 2018, the Department issued a Notice of Case Action to Petitioner informing Petitioner that her FAP application was being denied for failing to return verifications.
5. Petitioner's MA case was also closed, effective June 1, 2018, as a result of Petitioner's alleged failure to return the required verifications in a timely manner.
6. On July 2, 2018, Petitioner submitted a request for hearing disputing the Department's action.

### **CONCLUSIONS OF LAW**

#### **FAP Benefits**

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 order to be eligible for FAP benefits, an individual must have assets under the \$5,000 FAP asset limit. BEM 400 (May 1, 2018), p. 5. Assets include checking accounts. BEM 400, p. 1-2, 15. Thus, a client's eligibility can depend upon how much money is in his or her checking account.

Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (April 2017), p. 1. To request verification of information, the Department sends a verification checklist (VCL) which tells the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. For FAP cases, the Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verification that is required. BAM 130 (April 2017), p. 7. Verifications are considered to be timely if received by the date they are due. BAM 130, p. 7. For electronically transmitted verifications (fax, email or Mi Bridges document upload), the date of the transmission is the receipt date. BAM 130, p. 7. Verifications that are submitted after the close of regular business hours through the drop box or by delivery of a Department representative are considered to be received the next business day. BAM 130, p. 7. The Department sends a negative action notice when: the

client indicates a 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, p. 7.

In this case, the Department issued Petitioner a Verification Checklist on May 2, 2018, with a due date of May 14, 2018. The Department requested verification of Petitioner's checking account balance. Petitioner did not provide the verifications to the Department by the due date. Furthermore, Petitioner did not present any testimony indicating that she made a reasonable effort to provide the verifications by the deadline. Therefore, the Department acted in accordance with policy when it denied Petitioner's FAP application.

### **MA Benefits**

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 administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

Health care coverage for adults is available through the Healthy Michigan Plan. In order for an individual to be eligible for health care coverage under the Healthy Michigan Plan, the individual must be age 19 to 64 and the household income cannot exceed 133% of the Federal Poverty Level (FPL). BEM 137 (April 1, 2018), p. 1.

The Department must obtain verification of income and assets. BAM 130 (April 1, 2017), p. 1. The Department must tell the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. The Department must allow the client 10 calendar days to provide the verification that is requested. BAM 130, p. 8. The Department must send a case action notice if the client refuses to provide the requested verification or the client fails to make a reasonable effort to provide it before the due date lapses. BAM 130, pp. 8-9.

Here, the Department closed Petitioner's MA case as a result of Petitioner's failure to verify her bank account information. While it is true that Petitioner failed to timely return the verifications, the Department may not use that failure to affect Petitioner's MA case. The Verification Checklist indicates that "We need your help to determine your eligibility for program(s): Food Assistance Program." The unreturned verification did not give Petitioner any notice that her MA benefits were implicated in any way. The only program that was implicated was FAP. Petitioner was not informed that any action or inaction would have any impact on MA. Thus, the Department may not use Petitioner's inaction with respect to her FAP case to close Petitioner's MA case. Furthermore, there is no asset test for HMP, so the allegedly required verifications had no bearing on Petitioner's eligibility anyways. BEM 400, p. 3.

The Department failed to act in accordance with its policies when it closed Petitioner's MA case for her alleged failure to make a reasonable effort to provide the information requested with respect to her FAP case.

### **DECISION AND ORDER**

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 Petitioner's FAP benefit application. Accordingly, the Department's decision with respect to her FAP case is **AFFIRMED**.

However, the Department failed to act in accordance with Department policy when it closed Petitioner's MA benefit case. Accordingly, the Department's decision in that regard is **REVERSED**.

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 MA benefits, effective June 1, 2018.
2. If Petitioner is eligible for additional benefits, issue Petitioner any supplemental benefits she may thereafter be due.
3. Issue written notice of any case action(s) in accordance with Department policy.



JM/dh

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**John Markey**  
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  
8655 Greenfield  
Detroit, MI 48228

Wayne County (District 31), DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

**Petitioner**

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