



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
LANSING

SHELLY EDGERTON  
DIRECTOR

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Date Mailed: August 23, 2018  
MAHS Docket No.: 18-007485  
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 16, 2018, from Lansing, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Patricia Marx, Family Independence Manager. During the hearing, 31 pages of documents were offered and admitted as Exhibit A, pages 1-31.

**ISSUE**

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On ██████████, 2018, Petitioner submitted an application for FAP benefits. In the application, Petitioner stated she owned two vehicles.
2. On February 16, 2018, the Department sent Petitioner a Verification Checklist form with a due date of February 26, 2018. The Verification Checklist requested proof of Petitioner's ownership of one of the vehicles reported on the application.
3. On Saturday, February 24, 2018, Petitioner received the Verification Checklist in the mail.
4. On Monday, February 26, 2018, Petitioner mailed the Department the requested proof of ownership of the vehicle.

5. On March 30, 2018, the Department issued to Petitioner a Notice of Case Action informing Petitioner that her application for FAP benefits was being denied for failure to return the requested verifications.
6. On May 21, 2018, Petitioner submitted a request for hearing disputing 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, Petitioner submitted an application for FAP benefits on [REDACTED], 2018. In the application, Petitioner indicated she owned two vehicles, a Ford pickup truck and a 2005 Saturn. As a result, the Department sent Petitioner a Verification Checklist requesting verification that Petitioner owned the Saturn. The form was due by February 26, 2018.

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 to provide the verification that is required. BAM 130, p. 7.

Petitioner did not return the employment verification form by its due date of February 26, 2018, because she did not receive the request until Saturday, February 24, 2018. The very first day she could mail the verification into the Department, she did so. However, that was the due date, causing the verification to be received by the Department shortly after the deadline.

In addition to being received slightly past the deadline, the Department considered the provided verifications to be insufficient because the document provided by Petitioner was not legible. Rather, the document in the Department's record is a mostly illegible black blob. However, Petitioner credibly testified that the document she provided was clear, legible, and included all of the information requested. When the Department

received the document, it scanned the document into its system as an electronic record. The scanning process substantially diminished the quality of the document, resulting in a less than ideal copy.

The Department determined that the documents Petitioner submitted were insufficient to verify the ownership of the 2005 Saturn. The document submitted by Petitioner may or may not have been sufficient, but the document the Department presented during the hearing certainly was not sufficient as a result of the Department's electronic record transition. As a result, the Department sent Petitioner a Notice of Case Action on March 30, 2018, informing her that her application for FAP benefits was denied for her failure to verify ownership of the vehicle.

The Department must assist clients who ask for help in completing forms, gathering verifications, and/or understanding written correspondence sent from the Department. BAM 105 (January 2018), p. 15. Petitioner provided exactly what was requested on the very first possible day after she received the request. It is not Petitioner's fault that the Department's action in converting her hard copy document into a scan caused the document to be unreadable. 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. It is evident that Petitioner did not indicate a refusal to provide the verification and made a reasonable effort to submit the documentation requested by the Department. Therefore, the Department failed to establish that it acted in accordance with policy when it denied Petitioner's application for FAP benefits.

### **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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Petitioner's application for FAP benefits.

Accordingly, the Department's decision 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. Reregister and reprocess Petitioner's application for FAP benefits;
2. If Petitioner is eligible for FAP benefits, issue supplements she was entitled to receive but did not as a result of the application denial;
3. Notify Petitioner of its FAP decision in writing.



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**

Patricia Marx  
448 Court Place  
Govt. Center  
Beulah, MI 49617

Benzie County, DHHS

BSC2 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

**Petitioner**

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