



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
LANSING

SHELLY EDGERTON  
DIRECTOR

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Date Mailed: September 6, 2018  
MAHS Docket No.: 18-007641  
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 30, 2018, from Lansing, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Shana Powell, Assistance Payments Worker. During the hearing, four documents were offered and admitted as Exhibits A through D.

**ISSUE**

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefits for allegedly being noncooperative with the Department's Office of Child Support (OCS)?

**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 ██████████, 2018, Petitioner submitted to the Department an application for FAP benefits. Exhibit A, pp. 1-7.
2. On the application, Petitioner indicated that her two children, who were both members of Petitioner's household, are under age 20 and have a parent who is living outside the home. Exhibit A, p. 4.

3. On June 15, 2018, the Department issued to Petitioner a Notice of Case Action indicating that she had been approved for \$504 per month in FAP benefits. Exhibit B, pp. 1-4.
4. On June 15, 2018, the Department issued to Petitioner a Verification Checklist requiring Petitioner to provide verification of Petitioner's address and directing Petitioner to contact the Office of Child Support (OCS) to comply with child support requirements. The requested verifications were due by June 25, 2018. Exhibit C, pp. 1-2.
5. On July 18, 2018, the Department issued to Petitioner a Notice of Case Action informing Petitioner that her FAP case was being closed effective August 1, 2018, because she failed to cooperate with OCS. Exhibit D, pp. 1-4.
6. On July 24, 2018, Petitioner submitted a request for hearing challenging the Department's closure of her FAP case.

### **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.

Parents have a responsibility to meet their children's needs by providing support and/or cooperating with the department, including OCS, the Friend of the Court (FOC) and the prosecuting attorney, to establish paternity and/or obtain support from an absent parent. BEM 255 (April 2018), p. 1.

The custodial parent or alternative caretaker of children must comply with all requests for action or information needed to establish paternity and/or obtain child support on behalf of children for whom they receive assistance, unless a claim of good cause for not cooperating has been granted or is pending. BEM 255, p. 1.

The following individuals who receive assistance on behalf of a child are required to cooperate in establishing paternity and obtaining support, unless good cause has been granted or is pending: grantee (head of household) and spouse; specified relative/individual acting as a parent and spouse; and parent of the child for whom paternity and/or support action is required. Cooperation is required in all phases of the

process to establish paternity and obtain support. It includes all of the following: contacting the support specialist when requested; providing all known information about the absent parent; appearing at the office of the prosecuting attorney when requested; and taking any actions needed to establish paternity and obtain child support (including but not limited to testifying at hearings or obtaining genetic tests). BEM 255 p. 9.

Cooperation is a condition of eligibility for FAP. At application, a client has 10 days to cooperate with OCS. BEM 255, p. 12. Clients are directed to contact OCS in the initial verification checklist, and failure to cooperate results in disqualification. BEM 255, p. 12. Cooperation is assumed until negative action is applied as a result of non-cooperation being entered. The non-cooperation continues until a comply date is entered by the primary support specialist or cooperation is no longer an eligibility factor. BEM 255 p. 10. An individual who is noncooperative with OCS is a disqualified member of the FAP group. BEM 212 (January 1, 2017), p. 8.

In this case, the Department issued to Petitioner a June 15, 2018, Verification Checklist that included the following directions: **“Please provide additional information about: Contact the Office of Child Support at 1-866-540-0008 to comply with Child Support requirements.”** The Verification Checklist notified Petitioner that **“Proofs due by – 06/25/2018.”** On July 18, 2018, the Department issued to Petitioner a Notice of Case Action informing Petitioner that her FAP case was being closed effective August 1, 2018, for failing to cooperate with the OCS.

The Department did not present any testimony or documentary evidence related to the OCS investigation or its contacts with Petitioner. Instead, it provided the above-referenced documents and the testimony of a Department employee who had no information related to the OCS actions. Furthermore, Petitioner testified that she attempted to provide all of the information requested when it was requested.

Overall, there is no evidence on the record to support the Department’s finding of non-cooperation with OCS. Thus, 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 did not act in accordance with Department policy when it closed Petitioner’s FAP case due to Petitioner’s alleged failure to cooperate with OCS.

### **DECISION AND ORDER**

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. Add Petitioner to the FAP group as of August 1, 2018, ongoing, and recalculate FAP benefits for the group for August 1, 2018, ongoing;
2. If Petitioner is eligible for additional FAP benefits, issue supplements to Petitioner that she was entitled to receive but did not from August 1, 2018, ongoing;

3. Notify Petitioner of 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**

Denise McCoggle  
27260 Plymouth Rd  
Redford, MI 48239

Wayne County (District 15), DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

**Petitioner**

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