



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
LANSING

SHELLY EDGERTON  
DIRECTOR

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

Date Mailed: September 12, 2018  
MAHS Docket No.: 18-008056  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Kevin Scully

**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; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on September 5, 2018, from Lansing, Michigan. Petitioner represented herself. The Department of Health and Human Services was represented by Karina Littles.

**ISSUE**

Did the Department of Health and Human Services (Department) properly determine Petitioner's eligibility for the Food Assistance Program (FAP)?

**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 [REDACTED], 2018, the Department received Petitioner's application for Food Assistance Program (FAP) benefits. Exhibit A.
2. Petitioner reported on her [REDACTED], 2018, application for assistance that her son was employed and paid weekly. Exhibit A.
3. On July 26, 2018, the Department received copies of her son's paycheck stubs dated June 19, 2018, July 3, 2018, July 17, 2018, and July 24, 2018. Exhibit A. Petitioner's Exhibit 1, pp 5-10.
4. On August 16, 2018, the Department received additional paycheck stubs. Petitioner's Exhibit 1, p 5.

5. On August 7, 2018, the Department received Petitioner's request for a hearing protesting the Department's handling of her application for Food Assistance Program (FAP) benefits.

### **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.

Clients must cooperate with the local office in determining initial and ongoing eligibility and this includes the completion of necessary forms. Department of Human Services Bridges Assistance Manual (BAM) 105 (January 1, 2018), p 8.

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level when it is required by policy, required as a local office option, or information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. The Department uses documents, collateral contacts, or home calls to verify information. A collateral contact is a direct contact with a person, organization, or agency to verify information from the client. When documentation is not available, or clarification is needed, collateral contact may be necessary. Department of Human Services Bridges Assistance Manual (BAM) 130 (April 1, 2017), pp 1-10.

On [REDACTED], 2018, the Department received Petitioner's application for FAP benefits. Petitioner reported on her [REDACTED], 2018, application for assistance that her son was employed and paid weekly.

The Department's representative testified that copies of paycheck stubs for Petitioner's son were received on July 26, 2018.

Petitioner testified that she was told that the documents she had submitted were sufficient. Later, it was determined that the paycheck stubs submitted on July 26, 2018, were insufficient verification of earned income received in the previous 30 days, because not all of the weekly paychecks in that period were submitted. Petitioner argues that she was lied to when she was told that the documents she submitted were

sufficient. Petitioner testified that recorded telephone calls with her caseworker verify that she was told that the documents she had submitted were insufficient.

The four paychecks stubs may have appeared to be sufficient initially because four weekly paycheck stubs usually cover a 30-day period. In this case, the paycheck stubs do not cover four consecutive weeks and therefore do not sufficiently verify a 30-day period. Commonly, gaps in paycheck stubs do not interfere with the Department's determination of income over a 30-day period but in this case the paycheck stubs do not list income received year to day, and therefore, the income listed on the missing check stubs cannot be determined.

This Administrative Law Judge finds that it is not relevant whether a Department employee lied to Petitioner or whether a simple mistake was made. The relevant issue here is whether Petitioner's eligibility for FAP benefits was properly determined. If Petitioner's case worker is responsible for some type of misconduct, that issue cannot be address in this hearing.

A complaint as to alleged misconduct or mistreatment by a state employee shall not be considered through the administrative hearing process but shall be referred to the department personnel director. Mich Admin Code, R 792.11002.

On August 16, 2018, the Department received additional paycheck stubs. The Department's representative testified that Petitioner's eligibility for FAP benefits was determined on August 22, 2018. No evidence was presented on the record that Petitioner is not eligible for FAP benefits.

Bridges prorates benefits for the month of application, beginning with the date of application, when the group is eligible for the application month. Department of Health and Human Services Bridges Administrative Manual (BAM) 115 (January 1, 2018), p 28.

In this case, it is not necessary to determine whether the FAP group was at fault for the delay in determining eligibility, or whether the Department was at fault. No evidence was presented on the record that Petitioner is not eligible for FAP benefits. Since Petitioner provided evidence of earned income received by her son before the 30<sup>th</sup> day from the date the application was received, the Department is required to determine her eligibility for FAP benefits in the application month.

No evidence was presented on the record that the Department determined Petitioner's eligibility for FAP benefits for July of 2018.

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 determined Petitioner's eligibility for Food Assistance Program (FAP) benefits based on her July 20, 2018, application for assistance.

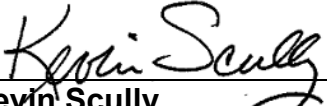
**DECISION AND ORDER**

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:

Initiate a determination of Petitioner's eligibility for the Food Assistance Program (FAP) based on her [REDACTED], 2018, application for assistance, and issue Petitioner any retroactive benefits she may be eligible to receive, if any.

KS/hb

  
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**Kevin Scully**  
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**

Richard Latimore  
4733 Conner  
Detroit, MI 48215

Wayne County (District 57), DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

**Petitioner**

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