



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
LANSING

SHELLY EDGERTON  
DIRECTOR

██████████  
██████████  
██████████ MI ██████████

Date Mailed: September 21, 2018  
MAHS Docket No.: 18-008295  
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 September 19, 2018, from Lansing, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Andrea Pertile, Assistance Payments Worker, and Timika Harris, Assistance Payments Supervisor. During the hearing, a 14-page packet of documents was offered and admitted as Exhibit A, pp. 1-14.

**ISSUE**

Did the Department properly deny Petitioner's application for Food Assistance Program (FAP) benefits for failing to timely return verifications related to a group member's loss of employment and income from three different employers?

**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 with a group of two, herself and her son, ██████████. With the application, Petitioner filed documentation regarding ██████████ income with Auburn Hills Comm and Hollywood Super Market. Exhibit A, p. 7.
2. On June 26, 2018, Petitioner and Ms. Pertile had a phone interview, during which Petitioner informed Ms. Pertile that ██████████ had worked for three different

employers in the previous month but was no longer employed with any of them. The three employers reported were [REDACTED], [REDACTED], and [REDACTED].

3. Based on the information provided in the phone interview, the Department issued Verification Checklists (VCL) to Petitioner on June 26, 2018, requesting for each of the three employer's paycheck stubs showing wages for the previous 30 days and verifications that employment had ended. The verifications were due by July 6, 2018. Exhibit A, pp. 4-5.
4. On July 6, 2018, Petitioner provided additional documentation in response to the VCL. Petitioner testified that she provided all of the requested information, but the Department's records only reflect a one-page submission showing [REDACTED]'s earnings with [REDACTED]. Exhibit A, p. 6.
5. On July 9, 2018, the Department issued to Petitioner a Notice of Case Action informing Petitioner that her FAP application was being denied as a result of the Department's determination that the verifications returned with respect to [REDACTED]'s income and employment status were insufficient. Exhibit A, pp. 11-14.
6. On August 8, 2018, Petitioner submitted a request for hearing challenging the Department's denial of her June 22, 2018, application for 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.

Petitioner filed a hearing request in this matter to challenge the Department's denial of Petitioner's June 22, 2018, application for FAP benefits. The Department alleges that Petitioner failed to make a reasonable effort to return verifications relating to an FAP group member's employment and income. Petitioner's position is that she, in fact, did provide the requested verifications on multiple occasions, but for some reason the Department did not have record of her providing them.

Verification of relevant, eligibility-related information is required at application. BAM 130 (April 2017), p. 1. For FAP, income and employment information are highly relevant in

determining both eligibility for FAP and the level of FAP benefits to which a group is entitled. BEM 550 (January 2017), p. 1. To request verification of information, the Department sends a 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, p. 7. Verifications are considered to be timely if received by the date they are due. BAM 130, p. 7. The Department sends a negative action notice when: (1) the client indicates a refusal to provide a verification OR (2) the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130, p. 7.

The Department's June 26, 2018, VCL stated that the Department needs the "last 30 days worth of paystubs for [REDACTED] for [REDACTED], [REDACTED], and [REDACTED]. If no longer working at these companies please provide proof of loss of employment." The requested verifications had to be received by the Department by July 6, 2018.

On July 6, 2018, Petitioner provided to the Department wage information for [REDACTED] related to his employment at [REDACTED], which supplemented wage information provided at application on June 22, 2018, related to both [REDACTED] and [REDACTED].

Upon reviewing the documents submitted by Petitioner, the Department deemed them to be insufficient with respect to [REDACTED]'s wages and employment status and issued a July 9, 2018, negative case action denying Petitioner's June 22, 2018, FAP application. At no point before closing Petitioner's FAP case did the Department send out another VCL that specifically identified why the timely submission by Petitioner was insufficient or incomplete.

Petitioner responded in a timely and reasonable manner to the VCL sent on June 26, 2018. Despite making a reasonable good faith effort to provide what was asked for, the Department deemed Petitioner's submission insufficient and sent a negative case action based on Petitioner's failure to provide what the Department requested.

The Department may only send negative case action where an individual indicates a refusal to provide verification or the time limit for providing the verification has passed and the client has not made a reasonable effort to provide it. BAM 130, p. 7. Petitioner never indicated an unwillingness to provide the information, and certainly, timely providing a substantial portion of what was asked for but not quite providing enough qualifies as a reasonable effort to provide the information. As neither of the conditions for sending a negative case action were present, the Department was precluded from sending a negative case action. This was simply a case where the information concerning an eligibility factor (income and employment) was incomplete and needed further verification pursuant to the verification policy, which requires the sending of a VCL unless the effort was not reasonable or the client expressed a refusal

to provide the information. Petitioner's effort was reasonable, as evidenced by her testimony and the documentary evidence presented during the hearing, and she did not express a refusal or unwillingness to provide the requested information. Thus, the Department violated policy by sending the negative action notice and denying Petitioner's FAP application.

The remedy for this error to is to allow Petitioner the opportunity to complete the application process by providing to the Department the documents necessary to determine her eligibility. The Department must issue to Petitioner a detailed VCL informing Petitioner specifically the information that it needs, and Petitioner, in order to complete the process, must comply with the request. This will require Petitioner to obtain income and employment information related to ██████████'s jobs described above. During the hearing, Petitioner was adamant that she had already provided those documents and expressed extreme frustration with the process. Certainly, if the documents have already been provided, anyone would be frustrated by the inconvenience of having to provide them again. The fact remains, however, that the Department does not have those documents in its records, for whatever reason. Those documents are necessary for determining Petitioner's eligibility for FAP benefits, and without them, the Department cannot issue Petitioner FAP benefits. Thus, when Petitioner receives the new VCL, she must, in order to establish eligibility for FAP benefits, make a reasonable and good faith effort to fulfill the demands with respect to each employer in their entirety. Petitioner may wish to run off copies of any and all documents she provides to the local office in order to have record of what she provided to the Department and when.

### **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 FAP application for Petitioner's alleged failure to submit required verifications.

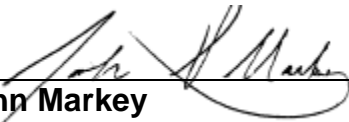
Accordingly, the Department's decision is **REVERSED**.

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. Reprocess Petitioner's FAP application back to the date of application and issue Petitioner any appropriate Verification Checklists **specifically and clearly** requesting the employment and income information the Department considers missing;

2. If Petitioner provides the required verifications and is found eligible for FAP benefits, award Petitioner FAP benefits, including any appropriate supplements for the time between application and the determination of eligibility; and
3. Notify Petitioner in writing of its decision.

JM/dh

  
\_\_\_\_\_  
**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**

Renee Swiercz  
51111 Woodward Ave 5th Floor  
Pontiac, MI 48342

Oakland County (District 4), DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

**Petitioner**

██████████  
██████████  
██████████ MI ██████████