



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
LANSING

SHELLY EDGERTON  
DIRECTOR

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[REDACTED]  
[REDACTED] MI [REDACTED]

Date Mailed: October 18, 2018  
MAHS Docket No.: 18-008630  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**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 October 17, 2018, from Lansing, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Darcy Suppes, Eligibility Specialist, and Melissa Brandt, Assistance Payments Supervisor.

**ISSUE**

Did the Department follow policy when it closed Petitioner's Food Assistance Program (FAP) benefits case, effective June 1, 2018?

Did the Department follow policy when it closed Petitioner's Medicaid (MA) case, effective June 1, 2018?

**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 FAP recipient with a FAP group size of one.
2. Petitioner was an ongoing MA beneficiary.

3. Sometime in April of 2018, the Department allegedly received an asset detection notice informing the Department that Petitioner had numerous previously unreported accounts at Portland Federal Credit Union.
4. On April 27, 2018, the Department allegedly issued to Petitioner a Verification Checklist (VCL) requiring Petitioner to provide the Department with information regarding those accounts.
5. Effective June 1, 2018, Petitioner's FAP and MA cases were closed.
6. On August 21, 2018, Petitioner submitted to the Department a request for hearing challenging the Department's closure of her FAP and MA cases.

### **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.

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 (formerly known as the Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

In this case, the Department closed Petitioner's FAP and MA cases as a result of Petitioner's alleged failure to timely return verifications with respect to accounts held in Petitioner's name at Portland Federal Credit Union. Petitioner objects to the Department's decision to close her FAP and MA cases.

A client's assets are highly relevant for the determination of eligibility for both FAP and MA. BEM 400 (May 2018), p. 1. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (April 2017), p. 1. Additionally, the Department must obtain verification when information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. BAM 130, page 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, 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.

According to the Department witnesses' testimony, the Department received an asset detection notice showing that Petitioner's social security number was linked to financial accounts at Portland Federal Credit Union. Because the Department had not previously been aware of those accounts, the Department allegedly issued to Petitioner a VCL requesting information on those accounts. The verifications were supposedly due on May 7, 2018.

The Department failed to produce any documentary evidence of a VCL being sent to Petitioner requesting the information related to Petitioner's assets. Thus, the record is devoid of any request for verification of that information. Instead, the Department witness testified that a VCL was sent out on April 27, 2018, requesting information relevant to Petitioner's ongoing eligibility for FAP benefits. The witness further testified that the Department then closed Petitioner's FAP and MA cases after Petitioner failed to provide the information requested by the deadline. However, the Department witnesses testified that Petitioner did, in fact, provide some of the information requested before her assistance cases were closed.

By failing to provide the documents necessary to determine whether the Department followed Department policy, the Department has failed to meet its burden of proving that it followed policy in making the decisions it made.

### **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 closed Petitioner's FAP and MA cases for Petitioner's alleged failure to submit required verifications.

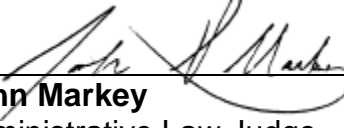
Accordingly, the Department's decision is **REVERSED**.

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. Redetermine Petitioner's FAP eligibility, effective June 1, 2018, ongoing;
2. Redetermine Petitioner's MA eligibility, effective June 1, 2018, ongoing;
3. If Petitioner is eligible for any additional FAP benefits, issue supplements to Petitioner;
4. If Petitioner is eligible for MA coverage, provide that coverage in accordance with Department policy;
5. Issue any verifications to Petitioner that may still be needed and ensure that the requests are clear as to what is being requested; and
6. Notify Petitioner in writing of its decision with respect to eligibility for FAP and MA benefits.

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**

Melissa Brandt  
920 East Lincoln St  
Ionia, MI 48846

Ionia County, DHHS

BSC3 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

**Petitioner**

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