



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

ORLENE HAWKS  
DIRECTOR

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

Date Mailed: March 13, 2019  
MAHS Docket No.: 19-000970  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Landis Lain

**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 March 6, 2019, from Lansing, Michigan. The Petitioner was represented by [REDACTED] (Petitioner). The Department of Health and Human Services (Department or Respondent) was represented by Authorized Hearings Representative Cathy Burr, Assistance Payments Worker.

Respondent's Exhibit A pages 1-71 were admitted as evidence.

**ISSUE**

Did the Department properly reduce Petitioner's Food Assistance Program (FAP) benefits?

**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] [REDACTED] 2018, the Department received an application for FAP benefits from Petitioner.
2. The Department sent Petitioner a verification checklist, requesting verification of rent, checking account, wages, salaries, tips and commissions, with verifications due November 30, 2018.

3. On December 4, 2018, the Department received a pay stub, verification of employment and a copy of the lease, which was not signed.
4. The Department determined that it could not use the unsigned lease as verification of housing expense and processed the FAP application.
5. FAP was denied for failure to provide verification information.
6. Missing verifications included the bank account checking and residential address.
7. On December 11, 2018, a Notice of Case Action was sent to Petitioner indicating that Petitioner was denied for FAP from January 1, 2019, forward for failure to provide bank account checking and residential address.
8. On December 17, 2018, the Department received a second application (within the 30-day period).
9. The application was processed, and Petitioner was sent a verification checklist.
10. The Department sent Petitioner an Appointment Notice for December 27, 2018.
11. On December 27, 2018, a second appointment notice was sent to Petitioner with an appointment scheduled for January 3, 2019.
12. The caseworker called Petitioner on both days for the appointments, but Petitioner did not answer.
13. Missed appointment notices were sent to Petitioner.
14. On December 20, 2018, the caseworker emailed Petitioner, indicating that she was in receipt of her concerns. The lease submitted was not sufficient because it does not contain signatures for the landlord and resident.
15. On January 15, 2019, the Department Caseworker attempted to contact Petitioner via telephone but there was no answer.
16. On January 15, 2019, the Department caseworker sent Petitioner Notice of Case Action indicating that Petitioner's application for FAP was approved for \$15.00 per month, because the lease submitted as not a signed copy. DHHS cannot give Petitioner the rent expense until the Department receives a signed copy of the lease.
17. On February 4, 2019, Petitioner filed a Request for Hearing to contest the Department's negative action.

## **CONCLUSIONS OF LAW**

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance has been denied. MAC R 400.903(1). Clients have the right to contest a Department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The Department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

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.

Pertinent Department policy dictates:

Clients have the right to contest a Department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The Department will provide an administrative hearing to review the decision and determine the appropriateness. The Michigan Administrative Hearing System (MAHS) may grant a hearing for any of the following:

- Denial of an application and/or supplemental payments.
- Reduction in the amount of program benefits or service.
- Suspension or termination of program benefits or service.
- Restrictions under which benefits, or services are provided.
- Delay of any action beyond standards of promptness.
- For FAP only, the current level of benefits or denial of expedited service. Department of Human Services Bridges Administrative Manual (BAM) 600 (April 1, 2017), pp 3-4.

The petitioner or AHR has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received in the local office within the 90 days. BAM 600, page 6

The Department must establish its case by a preponderance of the evidence on the record. A preponderance of evidence is evidence which is of a greater weight or more convincing than evidence offered in opposition to it. It is simply that evidence which outweighs the evidence offered to oppose it *Martucci v Detroit Commissioner of Police*, 322 Mich 270; 33 NW2d 789 (1948).

All Programs Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements.

Obtain verification when:

- Required by policy. Bridges Eligibility Manual (BEM) items specify which factors and under what circumstances verification is required.
- Required as a local office option. The requirement must be applied the same for every client. Local requirements may not be imposed for Medicaid Assistance (MA).
- Information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory. The questionable information might be from the client or a third party.

Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. (Bridges Administrative Manual (BAM) 130, page 1)

Nonpermanent documents must be current. Examples: driver's license, pay stub, rent receipt, utility bill, DHS-49-F, Medical-Social Questionnaire (BAM 130, page 2)

Identification which provides sufficient verification for residency are as follows:

- Driver's license.
- Other ID which provides a name and address.
- Mortgage or rent receipt.
- Utility bill.
- Collateral contact with a person who knows the individual's living arrangement. (BEM 220, page 7)


In this case, Petitioner testified that she did not sign the lease as it was handled electronically. She also did not provide verification proof of payment of rent. Petitioner must provide verification in the form of a signed lease from her apartment or proof of rental payment so the housing allowance may be added back into the FAP calculation and her allotment eligibility may be recalculated.

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 has established by the necessary competent, material and substantial evidence on the record that it was acting in accordance with Department policy when it cancelled Petitioner's FAP benefits because Petitioner failed to provide a signed lease agreement. Petitioner has not established good cause for failure to return the information to the Department. The Department's case is established by a preponderance of the evidence presented and must be upheld.

**DECISION AND ORDER**

Accordingly, the Department's decision is **AFFIRMED**

LL/hb

  
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**Landis Lain**  
Administrative Law Judge  
for Robert Gordon, 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**

Sarina Baber  
22 Center Street  
Ypsilanti, MI 48198

Washtenaw County (District 20), DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

**Petitioner**

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