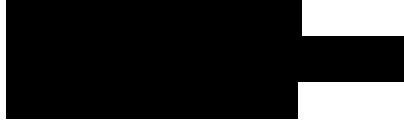




RICK SNYDER  
GOVERNOR

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

SHELLY EDGERTON  
DIRECTOR



Date Mailed: March 1, 2018  
MAHS Docket No.: 17-016497  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Ellen McLemore**

**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, an in-person hearing was held on February 28, 2018, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Arnesia Woods, Hearing Facilitator.

**ISSUE**

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefit case?

**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.
2. On November 30, 2017, Petitioner submitted a redetermination for her FAP benefit case (Exhibit B).
3. On November 30, 2017, Petitioner submitted one pay statement issued on November 3, 2017 from her income from employment and a checkout report for her tips earned on November 5, 2017 (Exhibits C and D).
4. On December 1, 2017, the Department sent Petitioner a Verification Checklist (VCL) requesting verification of Petitioner's wages for the previous 30 days (Exhibit E).

5. On December 1, 2017, Petitioner submitted a duplicate of the pay statement issued on November 3, 2017 and another checkout report.
6. On December 7, 2017, Petitioner submitted a pay statement for a check issued on December 1, 2017.
7. On December 19, 2017, the Department sent Petitioner a Notice of Case Action informing Petitioner that her FAP benefit case was closing effective January 1, 2018, ongoing, for her failure to submit all required verifications (Exhibit F).
8. On December 27, 2017, Petitioner submitted a request for hearing disputing the Department's actions regarding her FAP and Medical Assistance (MA) benefit 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).

#### **FAP**

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.

In the present case, Petitioner submitted a redetermination regarding her FAP benefit on November 30, 2017. Along with the redetermination, Petitioner submitted a pay statement from her income from employment that was issued on November 3, 2017. Petitioner also submitted a checkout report showing the tips she received on November 5, 2017. During a meeting that was held with Petitioner on [REDACTED], 2017, the Department advised Petitioner that they needed verification of wages for the previous 30 days. The pay statement that was issued on November 3, 2017 was only for a two week pay period. Petitioner was told the checkout report was insufficient to verify wages, as it only included her tips and not her hourly wages. The Department notified Petitioner that they needed the pay statement for the payment she received on November 17, 2017. The Department sent Petitioner a VCL requesting verification of wages for the previous 30 days on December 1, 2017. Proofs were due on December 11, 2017.

Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (April 2017), p. 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 (April 2017), 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.

On December 1, 2017, Petitioner submitted a duplicate of the pay statement issued on November 3, 2017 and another checkout report. As stated previously, the Department considered that information insufficient to verify Petitioner's wages. On December 7, 2017, Petitioner submitted a pay statement issued on December 1, 2017. The Department considered the verification to be insufficient because it was not within the 30-day period requested. The Department stated Petitioner was specifically advised she needed to submit the pay statement issued on November 17, 2017. Petitioner did not timely submit the November 17, 2017 pay statement. As a result, the Department sent Petitioner a Notice of Case Action informing her that her FAP benefit case was closing effective January 1, 2018, ongoing.

Petitioner testified that she did submit the November 17, 2017 pay statement, which she produced at the hearing (Exhibit 1). However, Petitioner's testimony as to when and how she submitted the statement was inconsistent throughout the hearing. Although Petitioner's testimony that she timely submitted the November 17, 2017 pay statement was not credible, there was evidence that she timely submitted her December 1, 2017 pay statement. It is evident that Petitioner made a good faith effort to comply with the Department's verification requests. The Department sends a negative action 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. Petitioner clearly did not indicate a refusal to provide the verification and made a reasonable effort to comply with the requests for verification. Thus, the Department did not act in accordance with policy when it closed Petitioner's FAP benefit case.

## **MA**

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.

The hearing was requested to dispute, in part, the Department's action taken with respect to the MA program benefits. Shortly after commencement of the hearing, Petitioner testified that she now understood the actions taken by the Department and did not wish to proceed with the hearing regarding her MA benefits. The Request for Hearing was withdrawn. The Department agreed to the dismissal of the hearing request.

Pursuant to the withdrawal of the hearing request filed in this matter, the Request for Hearing is regarding Petitioner's MA benefits is, hereby, **DISMISSED**.

### **DECISION AND ORDER**

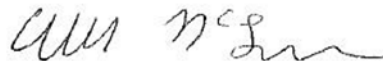
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with policy when it closed Petitioner's FAP benefit case. Accordingly, the Department's decision is **REVERSED**.

Pursuant to the withdrawal of the hearing request filed in this matter, the Request for Hearing is regarding Petitioner's MA benefits is, hereby, **DISMISSED**.

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 as of January 1, 2018, ongoing;
2. If Petitioner is eligible for FAP benefits, issue supplements she was entitled to receive but did not as of January 1, 2018, ongoing;
3. Notify Petitioner of its FAP decision in writing.

EM/cg



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**Ellen McLemore**

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) 335-6088; 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

**Via Email:**

MDHHS-Wayne-57-Hearings  
MDHHS-Recoupment-Hearings  
M. Holden  
D. Sweeney  
M. Best  
EQAD

**Petitioner – Via First-Class Mail:**

