



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
LANSING

SHELLY EDGERTON  
DIRECTOR

[REDACTED]

Date Mailed: November 20, 2018  
MAHS Docket No.: 18-010651  
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 November 14, 2018, from Lansing, Michigan. Petitioner represented himself. The Department of Health and Human Services was represented by Christine Brown.

### **ISSUE**

Did the Department of Health and Human Services (Department) properly close 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 July 2, 2018, the Department sent Petitioner a Semi-Annual Contact Report (DHS-1046) with an August 1, 2018, due date. Exhibit A, pp 3-4.
2. On August 10, 2018, the Department sent Petitioner a Notice of Potential Food Assistance Program (FAP) Closure (DHS-1046-A). Exhibit A, p 2.
3. On August 20, 2018, the Department received Petitioner's Semi-Annual Contact Report (DHS-1046) where he reported that his household income had changed by more than \$100. Exhibit A, pp 3-4.
4. On October 9, 2018, the Department received Petitioner's request for a hearing protesting the closure of his 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.

The client's gross earned income from his/her most current budget is pre-filled on the DHS-1046. If the client's gross income has changed by more than \$100 from the pre-filled amount on the form, he/she must return verification of his/her past 30 days of earnings with his/her completed DHS-1046. If the client indicates his/her gross earned income has not changed by more than \$100, verification of the past 30 days is not required. However, income must be budgeted and EDBC run if a client checks "No" to the questions, but supplies proof of income. Department of Health and Human Services Bridges Administrative Manual (BAM) 210 (January 1, 2018), p 12.

If proof of income is not returned with the DHS-1046, the form is not to be marked as received.

On July 2, 2018, the Department initiated a review of Petitioner's eligibility for ongoing benefits by sending him a Semi-Annual Contact Report (DHS-1046) because his benefit period was ending. The DHS-1046 needed to be returned by the end of the benefit period in order to avoid an interruption of benefits as required by BAM 210. When the Department did not received Petitioner's DHS-1046 by August 10, 2018, it sent him a

Notice of Potential Food Assistance Program (FAP) Closure (DHS-1046-A). On August 10, 2018, the Department received Petitioner's DHS-1046 but no verification of the change of gross income that he had reported. Petitioner's FAP benefits then automatically closed without further notice.

The DHS-1046 instructs FAP recipients that "If you do NOT sign this form and return it and all required proofs, your benefits will be cancelled or reduced." The DHS-1046-A gives FAP recipients notice that the Semi-Annual Contact form or required information has not been received by the Department. Department policy requires that when a change of more than \$100 to gross monthly income is reported, that FAP recipients are required to return verification of his/her past 30 days of earnings along with his/her completed DHS-1046.

In this case, Petitioner failed to return verification of his past 30 days of earnings with his completed DHS-1046, which was returned after the due date. Since the DHS-1046 was not completed by the end of the benefit period, Petitioner's FAP benefits automatically closed as required by BAM 210, and he failed to fulfill the program requirements before the end of the benefit period.

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  
(January 1, 2018), pp 3-4.

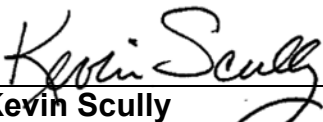
In addition to his protest over the closure of FAP benefits, Petitioner argued that he had requested notice of the policies applied to the closure of his FAP benefits under the Freedom of Information Act. Petitioner is not entitled to a hearing with respect to such requests under BAM 600 and the Michigan Administrative Hearing System (MAHS) has no jurisdiction over such requests.

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 acted in accordance with Department policy when it closed Petitioner's Food Assistance Program (FAP) benefits.

**DECISION AND ORDER**

Accordingly, the Department's decision is AFFIRMED.

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**

Randa Chenault  
25620 W. 8 Mile Rd  
Southfield, MI 48033

Oakland County (District 3), DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

**Petitioner**

