



RICK SNYDER  
GOVERNOR

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

SHELLY EDGERTON  
DIRECTOR

[REDACTED]

Date Mailed: December 17, 2018  
MAHS Docket No.: 18-011651  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Jeffrey Kemm

**HEARING DECISION**

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; 7 CFR 273.15; 42 CFR 431.200 to 431.250; 42 CFR 438.400 to 438.424; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on December 12, 2018, from Lansing, Michigan. Petitioner, [REDACTED], appeared and represented herself. Hearing Facilitator, Dionere Craft, appeared for the Department. Neither party had any additional witnesses. [REDACTED] interpreted the hearing in Bengali.

One exhibit was admitted into evidence during the hearing. An 8-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

**ISSUES**

Did the Department properly terminate Medical Assistance (MA) for Petitioner's spouse and child?

Did the Department properly determine Petitioner's MA benefit?

Did the Department properly deny Petitioner's request for 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. Petitioner immigrated to the United States with her spouse and minor child. Petitioner entered on [REDACTED], 2014, as a permanent resident alien under category F42.

2. Petitioner applied for and obtained MA from the Department. The Department provided Emergency Services Only (ESO) MA for Petitioner, her spouse, and her minor child.
3. On September 25, 2018, the Department issued a Health Care Coverage Determination Notice which notified Petitioner that her child's MA was going to be terminated effective November 30, 2018, for failure to provide verification.
4. On [REDACTED], 2018, Petitioner applied for FAP benefits from the Department. At the time of Petitioner's application, Petitioner was not employed. Petitioner's last employment was at [REDACTED] and it came to an end in June 2018.
5. On October 3, 2018, the Department issued a Verification of Employment to Petitioner which instructed CMT Foods to complete the form and return it to the Department by October 15, 2018. Petitioner returned the form and advised the Department that she was no longer employed by [REDACTED].
6. On October 29, 2018, the Department issued a Health Care Coverage Determination Notice which notified Petitioner that she was eligible for ESO coverage only because she did not have an eligible immigration status and had not been in the United States for at least five years. The Department also notified Petitioner that her spouse's MA was going to be terminated effective November 30, 2018, for failure to provide verification.
7. On October 29, 2018, the Department also issued a Notice of Case Action which notified Petitioner that her request for FAP benefits was denied for failure to provide verification.
8. On November 3, 2018, Petitioner requested a hearing to dispute the Department's decisions.

### **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.

The Department did not properly terminate MA for Petitioner's spouse and child. The Department did not present any evidence to establish that it terminated MA for Petitioner's spouse and Petitioner's child in accordance with its policies. To the contrary, the Department acknowledged that the termination of MA for Petitioner's spouse and Petitioner's child was in error.

The Department correctly determined Petitioner's MA benefit. To be eligible for full-coverage MA, an individual must be a US citizen, or an alien admitted to the US under a specific immigration status. BEM 225 (July 1, 2017), p. 2. Citizenship or immigration status must be verified to be eligible. BEM 225, p. 2. A permanent resident alien with any class code other than RE, AM, or AS is eligible but MA is limited to emergency services coverage (ESO) only for the first five years. BEM 225, p. 6-7. Here, since Petitioner was a permanent resident alien with a class code other than RE, AM, or AS, Petitioner was limited to ESO for her first five years in the United States. Since Petitioner entered the United States on May 17, 2014, Petitioner has not been in the United States for more than five years. Thus, the Department correctly found Petitioner eligible for ESO only.

The Department did not properly deny Petitioner's request for FAP benefits. Verification is usually required at application. BAM 130 (April 1, 2017), p. 1. Verification includes the use of documents, collateral contacts, and home calls. BAM 130, p 1-2. The Department must tell the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. The Department must allow the client 10 calendar days to provide the verification that is requested. BAM 130, p. 8. The Department must send a case action notice if the client refuses to provide the requested verification or the client fails to make a reasonable effort to provide it before the due date lapses. BAM 130, p. 8-9. Here, the Department did not act in accordance with its policies when it denied Petitioner's request for FAP benefits on October 29, 2018, because Petitioner had not refused to provide requested information or failed to make a reasonable effort to provide requested information. Petitioner received an employment verification request for a job she had last held approximately three months before she received the request. Petitioner attempted to contact her former employer and Petitioner advised the Department that she was no longer employed. Thus, Petitioner's actions showed that she had intended to provide the Department with all information it requested and that she had been making a good faith effort to do so.

**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 (1) did not act in accordance with its policies and the applicable law when it terminated MA for Petitioner's spouse and child, (2) did act in accordance with its policies and the applicable law when it found Petitioner eligible for ESO MA; and (3) did not act in accordance with its policies and the applicable law when it denied Petitioner's request for FAP benefits.

IT IS ORDERED the Department's decision to terminate MA for Petitioner's spouse and child is **REVERSED**. The Department shall initiate a review of MA for Petitioner's spouse and child.

IT IS ORDERED the Department's decision to find Petitioner eligible for ESO MA is **AFFIRMED**.

IT IS ORDERED the Department's decision to deny Petitioner's request for FAP is **REVERSED**. The Department shall initiate a review of Petitioner's request for FAP.

JK/nr



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Jeffrey Kemm  
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**

Demitra Owens  
12140 Joseph Campau  
Hamtramck, MI  
48212

Wayne 55 County DHHS- via electronic  
mail

BSC4- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

D. Smith- via electronic mail

EQAD- via electronic mail

**Petitioner**

