



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
LANSING

SHELLY EDGERTON  
DIRECTOR

[REDACTED], MI [REDACTED]

Date Mailed: December 28, 2018  
MAHS Docket No.: 18-012070  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Carmen G. Fahie

**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 December 20, 2018, from Lansing, Michigan. Petitioner was represented by herself and her daughter, authorized representative, and interpreter, Sawson Kato. The Department of Health and Human Services (Department) was represented by Haysem Hosny, Hearing Facilitator.

**ISSUE**

Did the Department properly determine Petitioner's eligibility for Food Assistance Program (FAP)?

**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 a recipient of FAP benefit with a redetermination due October 2018.
2. On October 22, 2018, the Department Caseworker sent Petitioner a Verification Checklist, DHS 3503, due by November 1, 2018 for Petitioner to provide written verification of a checking account for [REDACTED] and a savings account/Christmas Club account for [REDACTED]. Department Exhibit 1, pgs. 10-11.

3. On November 7, 2018, the Department Caseworker sent Petitioner a Notice of Case Action, DHS 1605, that Petitioner's FAP case would close effective November 1, 2018, because of Petitioner's failure to provide written verification of bank account checking was not returned for [REDACTED]. Department Exhibit 1, pgs. 17-20.
4. On November 16, 2018, the Department received a hearing request from Petitioner, contesting the Department's negative action.
5. On November 26, 2018, during the prehearing conference, Ms. [REDACTED] submitted the written proof of the closed checking account at Comerica Bank for [REDACTED] with a statement dated for November 21, 2018. Department Exhibit 1, pg. 22.
6. On November 26, 2018, the Department Caseworker sent Petitioner a Notice of Case Action, DHS 1605, that effective November 26, 2018, through November 30, 2018, she was approved for \$66 in FAP benefits; and December 1, 2018, forward, that she was approved for \$413 for a household size of three. Department Exhibit 1, pgs. 23-27.

### **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.

In this case, the Department Caseworker closed Petitioner's FAP case for failure to provide verifications of [REDACTED] Comerica checking account by the November 1, 2018, due date. When the required verification was provided on November 26, 2018, Petitioner's FAP benefits were restored, but only for November 26, 2018, forward. BEM 400.

During the hearing, Petitioner's daughter stated that she had called multiple times on her mother's behalf. She had previously provided the verification of the closed bank account for the previous redetermination in March 2018. The Hearing Facilitator confirmed that the verification was not on the electronic case file (ECF). Petitioner's daughter stated that the redetermination interview was conducted on October 22, 2018. They did not provide the verification because she thought the Department Caseworker had already had it, but provided additional bank account verifications. She said that she

did not know how to check the ECF to verify if the Comerica verifications were there since March 2018. She did call the caseworker repeatedly and did not receive a call back. The record was left open at the end of the hearing for Petitioner to provide written verification that she had called her Department Caseworker multiple times with no call back, and for the Hearing Facilitator to provide a copy of the case log that the Department Caseworker had called her back within two days as required by Department policy.

On December 20, 2018, Petitioner's date submitted telephone records that she called the Department Caseworker on her mother's behalf on October 26, 2018, twice after not receiving a call on the scheduled date. Petitioner Exhibit 1, pg. 2. She called twice again on November 6, 2018. Petitioner Exhibit 1, pg. 5. Another call was made by Petitioner's daughter on November 12, 2018, and November 14, 2018, with no return call. Petitioner Exhibit 1, pgs. 6-7. On November 19, 2018, she left a message for the supervisor after she could not reach the Department Caseworker previously. Petitioner Exhibit 1, pg. 8. On November 20, 2018, she was finally able to reach the caseworker, who was able to explain the type of documents to provide and where to get them. Petitioner Exhibit 1, pg. 9. She dropped off the documents and met with the supervisor on November 26, 2018.

On December 21, 2018, the Hearing Facilitator submitted the phone logs for the Department Caseworker for November 2018. The log showed calls from November 6, 2018, of two calls; one call on November 12, 2018; and another on November 14, 2018. A call was made on November 20, 2018, and Petitioner previously confirmed that on that day she was able to talk to the Department Caseworker. A final call was logged on November 28, 2018. Department Exhibit 2, pgs 1-2.

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 case for failure to provide verification when Petitioner's daughter had repeatedly call the Department Caseworker starting October 26, 2018. The Department Caseworker is required to call her back within two days as required by Department policy. Once Petitioner was able to talk to the Department Caseworker on November 20, 2018, to answer her questions, then she was able to provide the required verification to determine continued eligibility for FAP. Petitioner should be eligible retroactive to November 1, 2018, because she could have provided the verification by the due date if the Department Caseworker had called her back and clarified what was needed.

### **DECISION AND ORDER**

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 of initiating a redetermination of Petitioner's eligibility for FAP retroactive to her FAP closure date of November 1, 2018, by using the verification of bank account closure of Comerica submitted on November 20, 2018.

Based on policy, the Department should provide Petitioner with written notification of the Department's revised eligibility determination and issue Petitioner any retroactive benefits she may be eligible to receive, if any.

CF/dh



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**Carmen G. Fahie**  
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**

Vivian Worden  
41227 Mound Rd.  
Sterling Heights, MI 48314

Macomb County, DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

**Authorized Hearing Rep.**

Sawson Kato  
35743 Dodge park Rd  
Sterling Heights, MI 48312

**Petitioner**

[REDACTED], MI [REDACTED]