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GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS  
DIRECTOR

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██████████, MI ██████████

Date Mailed: July 14, 2023  
MOAHR Docket No.: 23-003325  
Agency No.: ██████████  
Petitioner: ██████████

**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, a telephone hearing was held on July 12, 2023, via conference line. Petitioner's husband, ██████████, was present and was unrepresented. The Department of Health and Human Services (Department) was represented by Cindy Miller, Assistance Payments Worker. Also present was Arabic interpreter, Andwar Shayota.

### **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 May 4, 2023, Petitioner submitted a change report, indicating the family had relocated to a new home (Exhibit A, pp. 6-7).
3. On May 10, 2023, the Department sent Petitioner a Verification Checklist requesting verification of Petitioner's husband's current income, proof of stocks, mortgage records, tax returns for 2022, and verification of all bank accounts, titles to cars and all assets and income (Exhibit A, pp. 8-11). The Department also requested Petitioner's recent mortgage application.

4. On May 23, 2023, Petitioner submitted a mortgage statement, payroll information from Petitioner's husband's company, his company's tax documents and bank statements from the family's personal checking account (Exhibit A, pp. 17-49).
5. On June 6, 2023, the Department sent Petitioner a Notice of Case Action informing Petitioner that his FAP benefit case was closing effective July 1, 2023, for his failure to verify requested information (Exhibit A, pp. 50-54).

### **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, Petitioner was an ongoing FAP recipient. On May 4, 2023, Petitioner submitted a change report indicating the family had moved to a new residence. The Department had previously budgeted \$████ per week in earned income as the only source of income for the household. However, Petitioner's new mortgage was \$2,830 per month (Exhibit A, p. 17). The Department was concerned, as Petitioner's husband's income was not reflective of the housing expense. As a result, the Department sent Petitioner a VCL requesting numerous verifications on May 10, 2023. Proofs were due by May 20, 2023.

Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (January 2021), 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, 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 May 23, 2023, Petitioner submitted a mortgage statement, payroll information from her husband's company, his company's tax documents and bank statements from the family's personal checking account. Per the payroll information, Petitioner's husband was now paying himself gross \$[REDACTED] per week (Exhibit A, p. 18). The Department continued to question Petitioner, as Petitioner's husband's income would only pay the cost of the mortgage, which did not include utilities, leaving the family with no disposable income. Additionally, the personal bank statements show that there were deposits from Petitioner's husband's business checking account on April 21, 2023, in the amount of \$[REDACTED]; on April 28, 2023, in the amount of \$[REDACTED]; and on May 5, 2023, in the amount of \$[REDACTED]. Petitioner did not have an explanation for the large deposits in such a short time period. When asked how he was able to qualify for such a substantial loan when the family's only income was \$[REDACTED] per week, Petitioner told the Department that the bank did not closely review his information. The Department requested Petitioner's loan application to clarify the discrepancies between the cost of the mortgage and the household income. Petitioner failed to return the requested information. As a result, the Department closed Petitioner's FAP benefit case.

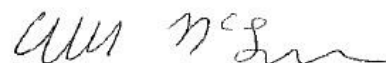
At the hearing, Petitioner's husband testified that he transferred large sums of money from his business account to his personal account because he was told to do so by the mortgage company to qualify for his loan. Petitioner's husband stated that his income through the business is gross \$[REDACTED] per week. Petitioner's husband did not have a clear answer as to how he is able to afford his mortgage solely on his income. Petitioner acknowledged at the hearing that he received \$6,000 from a friend.

The Department was reasonable when it requested additional verifications from Petitioner. The deposits in Petitioner's bank account are not reflective of Petitioner's husband's income. Additionally, Petitioner's mortgage is not affordable based on the income her husband receives, per the payroll records. Petitioner did not provide the Department the loan application, as requested. Therefore, the Department acted in accordance with Department policy when it closed Petitioner's FAP benefit case.

### **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 acted in accordance with Department policy when it closed Petitioner's FAP benefit case. Accordingly, the Department's decision is **AFFIRMED**.

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**Ellen McLemore**  
Administrative Law Judge

