

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

IN THE MATTER OF:

[REDACTED]

MAHS Reg. No.: 15-020702
Issue No.: 3008; 5002
Agency Case No.: [REDACTED]
Hearing Date: December 21, 2015
County: MACOMB-DISTRICT 20

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on December 21, 2015, from Detroit, Michigan. Petitioner appeared for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearings Facilitator.

ISSUE

Did the Department properly calculate the amount of Petitioner's Food Assistance Program (FAP) benefits and deny her application for State Emergency Relief (SER) assistance?

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 recipient of FAP benefits.
2. On [REDACTED], the Department sent Petitioner a Notice of Case Action informing her that effective [REDACTED], her FAP benefits would be decreased to \$394. (Exhibit A, pp. 20-24)
3. Petitioner has received FAP benefits in the amount of \$394 monthly since [REDACTED]
4. On [REDACTED], Petitioner submitted an application for SER assistance with relocation expenses. (Exhibit A, p. 4)

5. On [REDACTED], the Department sent Petitioner a SER Verification Checklist (VCL) instructing her to submit proof of: required shelter payments; need for SER Relocation (Court Order/judgment/summons); and home rent by [REDACTED], [REDACTED] (Exhibit A, pp. 5-6)
6. On [REDACTED], the Department sent Petitioner a SER Decision Notice informing her that her request for SER assistance was denied on the basis that she failed to provide the Department with proof of information as requested. (Exhibit A, pp. 7-9)
7. On [REDACTED] Petitioner requested a hearing disputing the calculation of her FAP benefits and the denial of her SER application.

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.

Petitioner requested a hearing to dispute the Department's calculation of her FAP benefits. It was established at the hearing that Petitioner was approved for and received FAP benefits in the amount of \$394 monthly since [REDACTED]. The Department presented a FAP EDG Net Income Results Budget, which was reviewed to determine if the Department properly calculated the amount of Petitioner's FAP benefits. (Exhibit A, pp. 11-13).

All countable earned and unearned income available to the client must be considered in determining a client's eligibility for program benefits. BEM 500 (July 2015), pp. 1 – 5. Child support is money paid by an absent parent(s) for the living expenses of children and is considered unearned income. The total amount of court-ordered direct support (which is support an individual receives directly from the absent parent or the Michigan State Disbursement Unit (MiSDU)) is counted as unearned income and is considered in the calculation of a client's gross unearned income. BEM 503 (July 2015), pp. 6-9. When prospectively budgeting unearned income from child support, the Department is

to use the average of child support payments received in the past three calendar months, unless changes are expected, excluding any unusual amounts or those not expected to continue. BEM 505 (July 2015), pp. 3-4. FIP benefits are considered the unearned income of the head of household and the gross amount is included in the calculation of unearned income. BEM 503, pp.14-15.

The Department concluded that Petitioner had unearned income in the amount of \$542 which it testified consisted of \$68 in child support and \$474 in monthly FIP benefits. Petitioner confirmed the amounts relied on and the Department presented a child support search and FIP benefit summary inquire in support of its testimony. (Exhibit A, pp. 14-17). Therefore, the Department properly calculated Petitioner's unearned income.

The deductions to income on the net income budget were also reviewed. Petitioner's group is eligible for the following deductions to income:

- Dependent care expense.
- Excess shelter.
- Court ordered child support and arrearages paid to non-household members..
- Standard deduction based on group size.
- An earned income deduction equal to 20% of any earned income.

BEM 554 (October 2014), p. 1; BEM 556 (July 2013), p. 3.

In this case, Petitioner did not have any earned income and there was no evidence presented that she had any out of pocket dependent care or child support expenses. Therefore, the budget properly did not include any deduction for earned income, dependent care expenses or child support expenses. Based on her confirmed three person group size, the Department properly applied the \$154 standard deduction. RFT 255 (October 2014), p. 1.

With respect to the excess shelter deduction, the Department stated that because Petitioner failed to verify her housing expenses as requested in connection with SER applications submitted in June 2015 and August 2015, there were no housing expenses included on the excess shelter deduction budget. The Department stated that there have been no housing or shelter expenses on Petitioner's FAP case since May 2014. The Department testified that because heat and utilities were also not verified, they were excluded from the calculation of the excess shelter deduction. Petitioner disputed the Department's testimony and maintained that she submitted shelter verifications to the Department in June 2015 and again in August 2015, however, Petitioner failed to provide any documentation in support of her testimony that she had previously verified her monthly rent of \$749 and other heat/utility expenses. Therefore, based on the evidence presented and Department policy, the Department properly determined that the excess shelter deduction was \$0.

After further review, the Department properly reduced Petitioner's gross income of \$542 by the \$154 standard deduction, resulting in monthly net income of \$388. Based on net income of \$388 and a FAP group size of three, the Department acted in accordance with Department policy when it concluded that Petitioner was eligible for monthly FAP benefits of \$394. BEM 556; RFT 260 (October 2014), p.5.

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 calculated Petitioner's FAP benefits.

SER

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Department of Human Services) pursuant to MCL 400.10 and Mich Admin Code, R 400.7001-.7049.

SER assists individuals to resolve or prevent homelessness by proving money for rent, security deposits and moving expenses. ERM 303 (October 2013), p. 1. Verification of: need such as a court summons, order or judgement; required shelter payments for the past six months; and shelter verification is required for relocation services. ERM 303, pp.3-4. Additionally, clients must be informed of all verifications that are required and where to return verifications. The Department will send a SER Verification Checklist (VCL) to request verifications and to notify the client of the due date for returning the verifications. The due date is eight calendar days beginning with the date of application. If the application is not processed on the application date, the deadline to return verification is eight calendar days from the date verification is requested. This does not change the standard of promptness date. ERM 103 (October 2013), pp.6-7.

The client must make a reasonable effort to obtain required verifications. The specialist must assist if the applicant needs and requests help. If neither the client nor the specialist can obtain the verifications despite a reasonable effort, use the best available information. If no evidence is available, the specialist must use their best judgment. ERM 103, pp.6-7.

In this case, the Department testified that because it did not receive the requested verification of Petitioner's required shelter payments, need for SER relocation services and shelter verification for home rent by the [REDACTED] due date listed on the SER VCL, it sent Petitioner an SER Decision Notice advising of the denial of the SER application on the basis that she failed to provide requested information. (Exhibit A, pp. 5-9).

At the hearing, Petitioner stated that she had previously applied for SER assistance at the beginning of August 2015 and requested a hearing to dispute the denial of that application. Petitioner stated that she had a prehearing conference concerning that first application on [REDACTED], and at the prehearing conference she submitted an

eviction notice and two rent receipts. Petitioner withdrew her hearing request and reapplied for SER assistance which is the application at issue in this case.

Petitioner stated that she was not informed that she was required to submit six months of rent receipts. Petitioner confirmed receiving the SER VCL dated [REDACTED], and stated that in response she called her case worker to inform her case worker that she had already submitted the requested documents. Petitioner further confirmed that she did not resubmit the eviction notice or rent receipts after receiving a copy of the [REDACTED], SER VCL in connection with her second SER application. The Department stated that it reviewed Petitioner's electronic case file prior to the hearing and did not have any record of the documents she indicated were submitted. Petitioner did not present any documentation in support of her testimony at the hearing.

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 because Petitioner failed to establish that she submitted the requested verifications in connection with the SER application and the SER VCL issued to her on [REDACTED], the Department acted in accordance with Department policy when it denied Petitioner's SER application.

DECISION AND ORDER

Accordingly, the Department's FAP and SER decisions are **AFFIRMED**.



Zainab Baydoun
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **12/28/2015**

Date Mailed: **12/28/2015**

ZB / hw

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date. A copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from MAHS within 30 days of the mailing date of this Hearing Decision, or MAHS **MAY** order a rehearing or reconsideration on its own motion. MAHS **MAY** grant a party's Request for Rehearing or Reconsideration when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The party requesting a rehearing or reconsideration must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088 and be labeled as follows:

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

cc:

