



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

MIKE ZIMMER
DIRECTOR

[REDACTED]

Date Mailed: March 15, 2016
MAHS Docket No.: 15-023146
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: **C. Adam Purnell**

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, an in-person hearing was held on March 9, 2016, from Grand Rapids, Michigan. Petitioner personally appeared and provided testimony. [REDACTED] (Assistance Payments Worker) and [REDACTED] (Family Independence Manager) represented the Department of Health and Human Services (Department).

ISSUES

Did the Department properly deny Petitioner's application for State Emergency Relief (SER) due to failure to provide requested verifications?

Did the Department properly reduce Petitioner's Food Assistance Program (FAP) monthly allotment?

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 received \$ [REDACTED] per month in FAP benefits. [Exhibit 1, p. 26].
2. Petitioner had a group size of 1 at all times.
3. Petitioner is disabled and received \$ [REDACTED] per month in Retirement, Survivors, and Disability Insurance (RSDI) benefits.

4. On November 15, 2015, Petitioner submitted an online SER application seeking non-energy home repair service in the amount of \$ [REDACTED] for a broken water heater. On the application, Petitioner indicated her address as "[REDACTED]" [Exh. 4, pp. 41-53].
5. On November 16, 2015, the Department mailed Petitioner an SER Verification Checklist (DHS-3503-SER) at "[REDACTED]," which requested the following: (1) "2 estimates" and (2) verification of home ownership in the form of one of the following: deed, life estate, life lease, mortgage, or verification from land contract holder; (3) verification of checking account in the form of one of the following: current statement from bank or financial institution, DHS 20 Verification of Assets; (4) verification of the amount for SER non energy home repairs in the form of an actual bill; and (5) "please provide additional information about SER home liveable." The Department mailed the DHS-3503-SER to Petitioner at [Exh. 1, pp. 8-9].
6. On November 16, 2015, the Department mailed Petitioner an Appointment Notice (DHS-170) which scheduled an appointment with the specialist on November 23, 2015 at 12:00pm at the Kent County DHHS Franklin District local office. [Exh. 1, p. 7].
7. Petitioner did not have a mobile or cell phone at the time. [Exh. 2, p. 35].
8. On November 18, 2015, Petitioner sent an email to her departmental caseworker inquiring whether the Department received her online SER application. In this email, Petitioner indicates in pertinent part, ". . . so I was not sure if it went through. It should have all of my information on it, which of course is unchanged since my June 2015 mid-certification, and unchanged since my April 2015 verifications, and unchanged since my March 2015 verifications to you." The caseworker sent an email response to Petitioner and indicated that the SER application was received on November 16, 2015 and noted that Petitioner had a scheduled appointment on November 23, 2015 at 12pm. The caseworker then indicated, "See attached appointment notice and verification checklist." [Exh. 2, p. 30].
9. On November 22, 2015, Petitioner sent an email to the caseworker requesting assistance getting the proofs. Petitioner indicated the following:
 - a. The water heater estimates cost \$ [REDACTED] each and Petitioner needs assistance paying for them. [Exh. 1, p. 16].
 - b. Manufactured homes do not have deeds so the request is impossible. [Exh. 1, p. 16].
 - c. She never had a mortgage as she paid cash for her home. [Exh. 1, p. 16].
 - d. She never had a life estate or life lease and does not know what they are. [Exh. 1, p. 16].

- e. She has never had a land contract. [Exh. 1, p. 16].
 - f. She is unable to give the Department an actual bill because the Department has not approved her emergency repair. [Exh. 1, p. 16].
 - g. She does not know what an SER home “liveable” is, how much it costs or how to get it. [Exh. 1, p. 16].
 - h. Her bank statement is in a box on the bottom of a pile of storage boxes and she cannot lift it. She will not get the next statement until next month. [Exh. 1, p. 16].
10. On November 23, 2015, the caseworker sent an email to Petitioner which indicated that if Petitioner had online banking, she can print the online balance and provide for verification of the bank account balance. The caseworker also suggested that Petitioner can go to her bank and get a print out which shows the balance. With regard to the estimates, the caseworker indicated that Petitioner must provide an estimate for the repair cost in order for the agency to determine eligibility for the service request. The caseworker then provided contact information for an organization known as “Home Repair Service” located in Grand Rapids. [Exh. 1, p. 15].
 11. On November 23, 2015, Petitioner responded to the caseworker in an email and indicated the following:
 - a. Home Repair Services will not do estimates and charge \$ [REDACTED] just to come out and they will not help me. [Exh. 1, p. 15].
 - b. “I’m almost certain that bank charges as well.” [Exh. 1, p. 15].
 - c. Petitioner is frustrated with the Department’s refusal to provide assistance. [Exh. 1, p. 15].
 12. On November 23, 2015, Petitioner appears to have sent an email to the caseworker inquiring if the Department can use the actual bill from her previous water heater. The caseworker did not appear to directly respond to this email. Petitioner then apparently emailed the caseworker and indicated that this found out that afternoon that a family friend had died and not sure about the date of the funeral. The caseworker did not appear to directly respond to this email. [Exh. 2, p. 36].
 13. Petitioner failed to provide bank statements to the Department on or before November 23, 2015 with regard to the November 15, 2015 SER application.
 14. Petitioner did not arrive at the interview scheduled for November 23, 2015.
 15. On November 24, 2015, Petitioner appears to have sent an email to the caseworker that indicated she had arranged for repairmen to come tomorrow at

noon to look at her water heater. In this email, Petitioner indicated, "I told them [the repairmen] that I have an appointment at noon; but if they don't come then, it won't be until 2016. I don't know how long it will take, but I can see you afterwards, unless you won't be there" I will also ask if they can help me to move the boxes, to get to my paperwork, but it is not their job or problem." The caseworker did not appear to respond to this email. [Exh. 2, pp. 36-37].

16. The Department processed Petitioner's SER application and discovered that her monthly RSDI amount increased from \$ [REDACTED] to \$ [REDACTED] [Exh. 1, pp. 23-26].
17. On November 24, 2015, the Department mailed Petitioner a State Emergency Relief Decision Notice (DHS-1419) which indicated, "Client failed to complete interview for SER request." The notice further indicated that Petitioner's request for \$ [REDACTED] non-energy home repairs is denied because she did not give proof of information the local office asked for.
18. On November 24, 2015, the Department mailed Petitioner a Notice of Case Action (DHS-1605) which decreased Petitioner's monthly FAP allotment to \$ [REDACTED] for the benefit period of January 1, 2016 through July 31, 2016. The notice further indicated that the reasons for the FAP reduction was because (1) Petitioner's shelter reduction amount changed due to a change in the shelter expense or change in income and (2) Petitioner's net unearned income amount changed. [Exh. 1, pp. 18-19].
19. On or about December 7, 2015, Petitioner, in an email, requested a hearing concerning the FAP reduction and SER application denial for non-energy home repairs.
20. On December 10, 2015, the Department received Petitioner's handwritten request for hearing concerning the FAP reduction and SER application denial.
21. On January 6, 2016, the Michigan Administrative Hearing System (MAHS) mailed Petitioner and the Department, a Notice of Hearing which scheduled a telephone hearing for January 27, 2016.
22. On January 21, 2016, the MAHS received a request for adjournment, an in-person hearing and mileage reimbursement.
23. MAHS adjourned the January 27, 2016 telephone hearing.
24. On February 22, 2016, MAHS mailed a Notice of Hearing to the parties which scheduled an in-person hearing for March 9, 2016.
25. On March 7, 2016, Petitioner, in an email, requested the in-person hearing be adjourned due to illness. Petitioner accompany the request for adjournment with any objective medical documentation.
26. On March 8, 2016, MAHS mailed an Order Denying Request for Adjournment.

- Confidentiality.
- Information about department programs.
- Assistance to applicants who have trouble reading and/or understanding. ERM 102, p. 1.

The in-person interview is waived for applicants who are active for another MDHHS program or have applied online through MIBridges; however a phone interview is required and the Individual Interviewed screen must be completed for each SER. ERM 103 (10-1-2013), p. 5.

Note: If an applicant cannot be reached by phone and no interview has been scheduled, the DHS-0170, Appointment Notice, must be sent informing the applicant of the interview requirement. ERM 103 (10-1-2013), p. 5. [Emphasis added].

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. BAM 130 (7-1-2015), p. 1. Verification is usually required upon application or redetermination and for a reported change affecting eligibility or benefit level. BAM 130, p. 1.

Clients must be informed of all verifications that are required and where to return 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, p. 6.

Use the DHS-3503, SER Verification Checklist, to request verification and to notify the client of the due date for returning the verifications. ERM 103, p. 6.

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, p. 6.

In the instant matter, Petitioner requested a hearing because the Department denied her SER application for failure to attend an interview and failure to return requested verifications by the due date. The Department contends Petitioner failed to attend the interview and return all requested verifications by the November 23, 2015 due date. Petitioner argues that she requested help with obtaining the verifications and the Department refused to help her.

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record. First, the Administrative Law Judge finds that the Department properly mailed all notices and correspondence to Petitioner in the due course of business. There is no evidence that Petitioner's address was incorrect. The record shows that Petitioner duly received notices and/or was aware of all verification due dates. [See Exh. 2, p. 30]

Second, the Administrative Law Judge finds that the Department properly sent Petitioner the appointment notice pursuant to the requirements of ERM 102. Petitioner testified that she did not have a phone, therefore, an in-person interview was required. Third, the Department also properly forwarded Petitioner the DHS-3503-SER so that her SER application can be processed within the standard of promptness. See ERM 103, p 6.

The salient issue in this matter is whether the Department provided Petitioner with assistance and whether Petitioner made a reasonable effort to obtain required verifications. ERM 103, page 6 provides that the specialist must assist if the applicant needs and requests help. Here, the record shows that Petitioner sent several emails to her caseworker during the time period at issue. Petitioner did ask for assistance in these emails and the caseworker acted properly and provided Petitioner with assistance that was reasonable under the circumstances. [See Exh. 1, p. 15]. However, the record shows that Petitioner appeared to be frustrated with her caseworker. [See Exh. 1, p. 15].

There is no dispute; however, that Petitioner failed to provide bank statements to the Department. Instead, Petitioner demonstrated that she was unwilling to provide verification of her banks statements to the Department and offered a myriad of reasons why she could not (or would not) provide the other verifications. ERM 102, page 1, requires the applicant to cooperate and provide verifications. In addition, ERM 103, page 6, provides that the client must make a reasonable effort to obtain required verifications. On this record, it is clear that Petitioner showed that she was not willing to make a reasonable effort to obtain the requested verifications. [See Exh. 1, p. 15]. Petitioner acknowledged that she had the bank statements under some boxes, but they were too heavy and nobody would help her lift them. [Exh. 1, pp. 15-16]. This shows Petitioner failed to make a reasonable effort to obtain the bank statements. This Administrative Law Judge is not persuaded that Petitioner could not ask another individual to lift the boxes for her to obtain the requested verifications.

Alternatively, Petitioner stated that she refused to provide the Department with bank statements because, "I'm almost certain that bank charges as well." [Exh. 1, p. 15]. This also demonstrates that Petitioner would not make a reasonable effort to obtain the verifications. Without the bank statements, the Department is unable to process Petitioner's eligibility for her requested SER assistance.

In addition, Petitioner's testimony that she was unable to obtain even one estimate to repair her hot water heater is not credible. She did not offer any witness testimony nor any documents to support this contention.

Similarly, Petitioner failed cooperate with the Department's attempts to schedule an interview so that her SER application can be processed. Because Petitioner essentially refused to provide the requested verifications and failed to attend the interview, the Department properly denied the SER application pursuant to ERM 102, p. 1.

Accordingly, this Administrative Law Judge finds that the material, competent and substantial evidence on the whole record shows that the Department properly denied Petitioner's SER application because she failed to complete the interview and failed to return necessary verifications.

Food Assistance Program (FAP)

The 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 FAP issue concerns whether the Department properly reduced Petitioner's monthly allotment from \$████ to \$████. The Department contends that the FAP amount was properly decreased because Petitioner's monthly RSDI increased from \$████ to \$████. Petitioner, on the other hand, contends that her income remained the same and that nothing changed.

For FAP purposes, all earned and unearned income available to an applicant or recipient is countable. BEM 500, (7-1-2015), p. 4. Earned income means income received from another person or organization or from self-employment for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMP), alimony, and child support payments. BEM 500, pp. 3-5.

When the income amount changes, the Department will adjust the amount(s) being budgeted for future pay periods. BEM 505 (7-1-2015), p. 1. BEM 505 describes income budgeting policy. When the Department budgets the amount of FAP for a group, it first determines whether there is a senior¹, disabled person² or a veteran member of that

¹ A "senior" is a person at least 60 years old. BEM 550, p 1.

² A "disabled" person who receives one of the following: (1) a federal, state or local public disability retirement pension and the disability is considered permanent under the Social

group. BEM 550, (10-1-2015), p. 1. A non-categorically eligible Senior/Disabled/Veteran (SDV) FAP group³ must have income below the net income limits. BEM 550, p. 1. A non-categorically eligible, non-SDV FAP group must have income below the gross and net income limits. BEM 550, p. 1.

The Department will use only available, countable income to determine eligibility. BEM 550, p. 1. It will always calculate income on a calendar month basis to determine eligibility and benefit amounts and use income from a month specified in this item for the benefit month being considered. BEM 550, p. 1.

The Department will budget the entire amount of earned and unearned countable income. BEM 550, p. 1. Gross countable earned income is reduced by a 20% earned income deduction. BEM 550, p. 1. Every case is allowed the standard deduction shown in RFT 255. BEM 550, p. 1. The Department documents income budgeting on either a manually-calculated or an automated FAP worksheet. BEM 550, p. 1.

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record. The Department properly reviewed Petitioner's unearned income (RSDI) from the SSA when it processed her SER application. Petitioner contends that her RSDI income has not changed, but she did not provide any objective evidence to support this proposition. The record reveals that Petitioner was previously receiving monthly unearned income from RSDI in the amount of \$ [REDACTED] at the time relevant to this matter. However, the Department representatives who attended the hearing testified credibly that the computer interface with the Social Security Administration (SSA) confirmed that Petitioner's monthly RSDI amount was increased to \$ [REDACTED]

The Department calculated that Petitioner's total monthly income of \$ [REDACTED] which was reduced by a standard deduction of \$ [REDACTED] left an adjusted gross income of \$ [REDACTED] [Exh. 1, p. 23]. An excess shelter deduction of \$ [REDACTED] was subtracted from Petitioner's adjusted gross income of \$ [REDACTED] resulting in Claimant receiving \$ [REDACTED] in net income. [Exh. 1, pp. 23-24]

A FAP recipient with a group size of 1 has a maximum net income limit of \$ [REDACTED] RFT 250 (10-1-2015), p. 1. Because Petitioner had a certified group size of 1 and a total countable monthly income of \$ [REDACTED] the food issuance tables indicate that the proper monthly FAP allotment is \$ [REDACTED] See RFT 260 (10-1-2015), p. 3.

Security Act; (2) Medicaid program which requires a disability determination by MRT or Social Security Administration; (3) Railroad Retirement and is eligible for Medicare or meets the Social Security disability criteria (4) a person who receives or has been certified and awaiting their initial payment for one of the following: (a) Social Security disability or blindness benefits; (b) Supplemental Security Income (SSI), based on disability or blindness, even if based on presumptive eligibility.

³ An SDV FAP group is one which has an SDV member. BEM 550 p 1.

The Department has shown that the RSDI increased and that the increase in Petitioner's monthly unearned income was properly budgeted. Therefore, the material, competent and substantial evidence on the whole record shows that Petitioner's monthly FAP was properly reduced from \$ [REDACTED] to \$ [REDACTED]

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 denied Petitioner's November 16, 2015 SER application and decreased Petitioner's monthly FAP allotment from \$ [REDACTED] to \$ [REDACTED]

DECISION AND ORDER

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

IT IS SO ORDERED.



CP/las

C. Adam Purnell
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) 335-6088; 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

[REDACTED]

[REDACTED]

Petitioner

[REDACTED]