



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: June 17, 2016
MAHS Docket No.: 16-006232
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 June 8, 2016, from Lansing, Michigan. [REDACTED], the Petitioner, appeared on her own behalf. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator.

During the hearing proceedings, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-82.

ISSUES

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

Did the Department properly determine Petitioner's eligibility for State Emergency Relief (SER)?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On March 15, 2016, Petitioner applied for FAP. (Exhibit A, pp. 3-18)
2. On March 18, 2016, a Verification Checklist was issued to Petitioner stating what verifications were needed by the March 28, 2016, due date. (Exhibit A, pp. 19-21)

3. On April 12, 2016, a Notice of Case Action was issued to Petitioner stating FAP was denied based on a failure to provide requested verifications. The comments from the caseworker indicated verification regarding a savings account was not received. (Exhibit A, pp. 22-25)
4. On April 19, 2016, the Department received needed credit union account verification. (Exhibit A, pp. 26-29)
5. On April 22, 2016, a Notice of Case Action was issued to Petitioner stating FAP was approved effective March 15, 2016. (Exhibit A, pp. 43-46)
6. On April 14, 2016, Petitioner applied for SER for heat (hold on natural gas account) and utility services (deposit/reconnect fee). (Exhibit A, pp. 47-70)
7. Verification from Consumers Energy shows a shut off pending and balances for gas. The payment history indicated Petitioner had not made any payments from October 2015 through January 2016, and did make payments in February and March 2016. (Exhibit A, p. 72)
8. On April 21, 2016, a State Emergency Relief Decision Notice was issued to Petitioner stating SER was approved for heat with a co-payment of \$ [REDACTED], but SER was denied for utility services because the need for the requested service does not meet program requirements. (Exhibit A, pp. 73-74)
9. On May 19, 2016, Petitioner filed a hearing request contesting the Department's process regarding the FAP application and the co-pay for the SER approval. (Exhibit A, p. 2)

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.

In general, verification is usually required upon application or redetermination and for a reported change affecting eligibility or benefit level. The Department worker must tell the client what verification is required, how to obtain it, and the due date. The client must obtain required verification, but the Department must assist if the client needs and requests help. If neither the client nor the Department can obtain verification despite a reasonable effort, the Department worker should use the best available information. If no evidence is available, the Department worker is to use their best judgment. BAM 130, January 1, 2016, pp. 1-3.

For FAP, the Department must allow a client 10 calendar days (or other time limit specified in policy) to provide the requested verification. If the client contacts the Department prior to the due date requesting an extension or assistance in obtaining verifications, the Department is to assist the client with the verifications but not grant an extension. The Department is to explain to the client they will not be given an extension and their case will be denied once the verification check list (VCL) due date is passed. The Department is also to explain that their eligibility will be determined based on their compliance date if they return required verifications. The Department is to re-register the application if the client complies within 60 days of the application date. BAM 130, p.7.

On March 15, 2016, Petitioner applied for FAP. (Exhibit A, pp. 3-18) On March 18, 2016, a Verification Checklist was issued to Petitioner stating what verifications were needed by the March 28, 2016, due date. This included a request for verification from all bank accounts. (Exhibit A, pp. 19-21) On April 12, 2016, a Notice of Case Action was issued to Petitioner stating FAP was denied based on a failure to provide requested verifications. The comments from the caseworker indicated verification regarding a savings account was not received. (Exhibit A, pp. 22-25) This was in accordance with the BAM 130 policy because not all requested verifications were received by the due date.

On April 19, 2016, the Department received needed credit union account verification. (Exhibit A, pp. 26-29) Even though this was just beyond 60 days from the March 15, 2016 application date, the Department re-instated Petitioner's FAP application and approved FAP back to the March 15, 2016, application date. On April 22, 2016, a Notice of Case Action was issued to Petitioner stating FAP was approved effective March 15, 2016. (Exhibit A, pp. 43-46)

Petitioner disagrees with the Department's process and testified she tried to do everything she was supposed to do to turn in the requested paperwork. Petitioner felt that it could have been handled differently and explained the delay with FAP caused a spiraling downfall with bills and she had to apply for SER. Petitioner did not dispute the amount of the FAP benefits approved. (Petitioner Testimony)

Overall, the evidence shows that the Department requested verifications needed for the FAP application in accordance with Department policy. Further, once the outstanding

credit union account verification was received, the Department reinstated Petitioner's FAP application and approved benefits retroactive to the March 15, 2016, application date. The Department's determination of Petitioner's eligibility for FAP is upheld.

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.

To be eligible for energy service assistance, a SER group must make required payments toward their energy service. The required payment amounts are based on the group size and service (heat or electric). ERM 301, October 1, 2015, p. 6.

The energy required payment period is the six-month period prior to the month the SER group applies for assistance, regardless of previous approvals. It applies even if the client has never requested or received SER energy services in the past six-months. ERM 301, p. 6.

Required payments must be met for each month the SER group has an obligation to pay for the service. Failure to make required payments may result in a shortfall. ERM 301, p. 6.

For a household size of five, the required monthly heat payment is \$[REDACTED]. (ERM 301, pp. 7-8) Accordingly, over a six month period, the required gas monthly payments would be \$[REDACTED]. The verification from Consumers Energy shows no payments from October 2015 through January 2016, a payment of \$[REDACTED] in February 2016, and a payment of \$[REDACTED] in March 2016. (Exhibit A, p. 72) Accordingly, the Department properly determined Petitioner had a shortfall from unmet required payments of \$[REDACTED]. (Exhibit A, pp. 73 and 75)

ERM 205 addresses assets. The SER group must use countable cash assets to assist in resolving their emergency. The protected cash asset limit is \$50. Exclude the first \$50 of an SER group's cash assets. ERM 205, October 1, 2015, p. 1. The bank statements showed a total balance of \$[REDACTED]. (Exhibit A, pp. 77-81) After excluded the \$50 protected cash asset limit, the Department properly determined Petitioner had an asset co-payment of \$[REDACTED]. (Exhibit A, p. 76)

When the shortfall from unmet required payments of \$[REDACTED] is combined with the asset co-payment of \$[REDACTED], Petitioner's total SER copayment was \$[REDACTED]. (Exhibit A, p. 73)

Petitioner testified that the household consists of herself, her fiancé, and three young children. Petitioner's fiancé had been out of work since December 2015 or January

2016, and Petitioner was concerned that his income was counted. Petitioner's income was only \$█ gross per week, which was used for rent, utilities and food because FAP was not approved at that time. Petitioner also stated the \$█ in assets went to food, which was not sufficient to feed the household for the month. (Petitioner Testimony)

It appears that no income from Petitioner's fiancé was included in calculating the SER co-payment. Further, the required monthly payments are only based on the household size, not the income. (Exhibit A, p. 75; Hearing Facilitator Testimony)

ERM 204 addresses the limited circumstances under which good cause can be found for a failure to meet required payment obligations. The evidence does not establish good cause for Petitioner's case. For example, there was no evidence of unexpected expenses related to maintaining or securing employment and the income was not below the good cause amount of \$█ for the group size. (ERM 204, August 1, 2014, pp. 1-3; Exhibit A, p. 75; Petitioner Testimony)


Overall, the evidence shows that the Department's calculation of Petitioner's SER co-payment was in accordance with the ERM policy and based on the asset verifications submitted to the Department.

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 determined Petitioner's eligibility for FAP and SER.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

CL/mc



Colleen Lack
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]

Petitioner

[REDACTED]