



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED] Date Mailed: December 19, 2016

MAHS Docket No.: 16-015421

Agency No.: [REDACTED]

Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Eric J. Feldman

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 1, 2016, from Detroit, Michigan. The Petitioner was represented by [REDACTED] [REDACTED]). The Department of Health and Human Services (Department) was represented by [REDACTED], Eligibility Specialist.

ISSUES

Did the Department properly process Petitioner's Cash assistance application dated April 22, 2016?

Did the Department properly process Petitioner's State Emergency Relief (SER) application for property taxes dated September of 2016?

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 April 22, 2016, Petitioner applied for Cash assistance.
2. In September of 2016, Petitioner applied for SER assistance with property taxes in the amount of [REDACTED]
3. Petitioner's household size is two, Petitioner and her dependent child (hereinafter referred to as "Child A").

4. Child A is 17-years-old, she attends high school full-time, and is employed.
5. On or about July 5, 2016, the Medical Review Team (MRT) denied Petitioner's Partnership. Accountability. Training. Hope. (PATH) deferral request. Exhibit A, pp. 1 and 16-23.
6. On October 4, 2016, the Department sent Petitioner a SER Decision Notice notifying Petitioner that she must pay a total of [REDACTED] towards the property taxes and then once Petitioner pays this amount, the Department would pay [REDACTED] towards the property taxes. Exhibit A, pp. 7-8.
7. On October 13, 2016, Petitioner filed a hearing request, protesting the Department's action. Exhibit A, pp. 2-4.

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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Department of Human Services) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101-.3131.

The State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. The Department of Health and Human Services (formerly known as the Department of Human Services) administers the SDA program pursuant to 42 CFR 435, MCL 400.10 and Mich Admin Code, R 400.3151-.3180.

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.

Preliminary matters

First, Petitioner applied for SDA benefits on September 30, 2016, and the application is currently being forwarded to MRT. See Exhibit A, p. 1. The undersigned Administrative Law Judge (ALJ) lacks jurisdiction to address this application because it is still pending and the Department must be allowed to process the application in accordance with Department policy. See BAM 115 (July 2016), p. 15 (Standard of promptness processing for SDA applicants is 60 days, but can be extended 60 days from the date of

deferral by MRT). Petitioner also appeared to indicate that she never received a response for her SDA application approximately two-years-ago. However, Petitioner failed to present any evidence showing she applied for SDA benefits two-years-ago. As such, the undersigned ALJ lacks jurisdiction to address her alleged prior SDA application because she failed to present any evidence showing of such an application. See BAM 600 (October 2016), pp. 1-6.

Second, based on Petitioner's testimony and hearing request, she is disputing the following: (i) whether the Department properly processed Petitioner's Cash application dated April 22, 2016; and (ii) whether the Department properly processed Petitioner's SER application for property taxes. Exhibit A, pp. 2-4. The undersigned ALJ will address each of Petitioner's concerns below:

Cash application

In this case, Petitioner disputed the Department's failure to process her State Disability Assistance (SDA) application dated April 22, 2016. Petitioner testified that she never received any response to her SDA application (i.e., Notice of Case Action).

In response, the Department first stated that Petitioner submitted an SDA application on April 22, 2016, but then indicated it was a Cash assistance application. The Department testified that Petitioner's SDA application was denied by MRT on or about July 5, 2016, for a PATH deferral. See Exhibit A, pp. 1 and 16-23. This statement by the Department was somewhat confusing because the PATH program is related to the Family Independence Program (FIP) benefits, not SDA. BEM 209 (October 2015), p. 1. The undersigned ALJ provides clarification of the Cash assistance programs below:

The Family Independence Program (FIP), Refugee Cash Assistance (RCA) and State Disability Assistance (SDA) are cash assistance programs designed to help individuals and families become self-sufficient. BEM 209 (October 2015), p. 1. For purposes of this hearing, the RCA program is not applicable.

When an individual applies for cash assistance, the Department determines group composition and builds an eligibility determination group (EDG) for these programs in the following order: FIP, RCA and SDA. BEM 209, p. 1. Cash assistance is available to eligibility determination groups who meet all of the non-financial and financial requirements that are needed to determine eligibility and calculate benefit amounts. BEM 209, p. 1.

In the present case, Petitioner cannot just choose to have the Department determine her eligibility for SDA, when in fact, she might be eligible for FIP benefits. The undersigned ALJ states this because there is a dependent child in the home, Child A, who is 17-years-old and she attends high school full-time. FIP group composition includes the dependent child who lives with a legal parent. See BEM 210 (January 2016), p. 1. A dependent child is an unemancipated child who lives with a caretaker

and is one of the following: under age 18 or age 18 and a full-time high school student. BEM 210, p. 2. Thus, it initially appears that the Department would first process Petitioner's eligibility for the FIP program based on her group composition. See BEM 210, pp. 1-2. However, the Department presented no evidence that it processed Petitioner's eligibility for FIP benefits.

On the other hand, the Department mentioned during the hearing that Petitioner might not be eligible for FIP benefits because of exceeding the time limits. See BEM 234 (July 2014), pp. 1-7. This means that even if Petitioner meets the FIP group composition requirements, she still would not be eligible for FIP benefits because she exceeded the federal and/or state time limits. But again, the Department presented no evidence if Petitioner exceeded the time limits. In fact, the Department failed to present any evidence of showing that it processed her eligibility for FIP and/or SDA benefits, which would usually entail the Department issuing an eligibility decision. See BAM 115 (January 2016), pp. 22-23 (Eligibility decisions).

Overall, the undersigned ALJ finds the Department failed to satisfy its burden of showing that it properly processed Petitioner's Cash application dated April 22, 2016, in accordance with Department policy. Accordingly, the Department is to reprocess Petitioner's Cash assistance application dated April 22, 2016, in order to determine if she eligible for FIP benefits and if not, then her SDA eligibility. See BEM 209, p. 1.

SER application

SER helps to prevent loss of a home if no other resources are available and the home will be available to provide safe shelter for the SER group in the foreseeable future. ERM 304 (October 2015), p. 1. Covered services under home ownership include property taxes and fees. See ERM 304, p. 1.

In the present case, Petitioner disputed the Department's processing of her SER application with property taxes dated in September of 2016. For purposes of the SER application, Petitioner's group size is two (Petitioner and Child A). See ERM 201 (October 2015), pp. 1-2 (group composition); and State Emergency Relief Glossary (ERG) (March 2013), p. 4 (definition of a dependent child).

On October 4, 2016, the Department sent Petitioner a SER Decision Notice notifying Petitioner that she must pay a total of [REDACTED] towards the property taxes and then once Petitioner pays this amount, the Department would pay [REDACTED] towards the property taxes. Exhibit A, pp. 7-8. The amount Petitioner must pay is referred to as the "copayment." Exhibit A, p. 7. The SER Decision Notice stated that Petitioner's total copayment of [REDACTED] is comprised of the following: (i) [REDACTED] income/asset copayment and (ii) [REDACTED] contributions from Petitioner and/or other sources. Exhibit A, p. 7.

The undersigned ALJ first addresses the income/asset copayment. SER group members must use their available income and cash assets that will help resolve the emergency. ERM 208 (October 2016), p. 1.

In most cases cash assets in excess of \$50 result in an asset copayment. ERM 208, p. 1. An asset copay cannot be reduced or waived. ERM 208, p. 1.

A group is eligible for non-energy SER services with respect to income if the total combined monthly net income that is received or expected to be received by all group members in the 30-day countable income period does not exceed the standards found in Exhibit I, SER Income Need Standards for Non-Energy Services. ERM 208, p. 1. The SER Income Need Standards for Non-Energy Services states that the income need standard for a SER group size of two is \$500. ERM 208, p. 5.

Income that is more than the basic monthly income need standard for the number of group members must be deducted from the cost of resolving the emergency. ERM 208, p. 1. This is the income copayment. ERM 208, p. 1.

The income and asset copayments combined together determine the SER group's total copayment. ERM 208, p. 2. The total copayment is the amount the SER group must pay toward their emergency. ERM 208, p. 2. Copayment amounts are deducted from the cost of resolving the emergency. ERM 208, p. 2.

In this case, Petitioner's total income/asset copayment was [REDACTED]. However, the Department was unable to inform the undersigned ALJ how it came to the determination that her income/asset copayment was [REDACTED]. Moreover, the Department failed to present a co-payment calculation/budget for the evidence record, which would also assist the undersigned ALJ in showing how it calculated these amounts. As such, the Department failed to satisfy its burden of showing how it determined the calculations of Petitioner's income/asset copayment in accordance of Department policy. See ERM 208, pp. 1-7.

The next copayment the undersigned ALJ addresses is the [REDACTED] contributions copayment. Exhibit A, p. 7. The SER group must contribute toward the cost of resolving the emergency if SER does not cover the full cost of the service. ERM 208, p. 3. Other persons or organizations can also contribute funds on behalf of the SER group. ERM 208, p. 3. Verification that the contribution has been paid must be received before any SER payment can be made. ERM 208, p. 3.

If the SER group meets all eligibility criteria but has a copayment, shortfall or contribution, do not issue payment until the client provides proof that their payment has been made or will be made by another agency. ERM 208, p. 4.

Again, though, the Department failed to provide any testimony or evidence showing how it came to the determination that Petitioner's contribution is [REDACTED]. As such, the

Department failed to satisfy its burden of showing how it determined the calculation of Petitioner's contribution copayment in accordance of Department policy. See ERM 208, pp. 3-4.

Accordingly, the Department failed to satisfy its burden of showing that it properly processed Petitioner's SER application with property taxes dated in September of 2016. The Department is ordered to reprocess Petitioner's SER application for property taxes.

It should be noted that there was lengthy discussion during the hearing as to whether to include Child A's income in the SER eligibility determination. The undersigned ALJ did not have sufficient evidence or testimony to conclude one way or another whether Child A's income should be included. As such, when the Department is reprocessing Petitioner's SER application, it will determine whether or not Child A's income is excluded. See ERM 206 (October 2013), p. 3 (Excluded earned income of a dependent child).

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 (i) the Department failed to satisfy its burden of showing that it properly processed Petitioner's Cash application dated April 22, 2016, in accordance with Department policy; and (ii) the Department failed to satisfy its burden of showing that it properly processed Petitioner's SER application with property taxes dated in September of 2016, in accordance with Department policy.

Accordingly, the Department's Cash assistance and SER 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:

1. Initiate re-registration and reprocessing of Petitioner's Cash assistance application dated April 22, 2016;
2. Issue supplements to Petitioner for any Cash benefits she was eligible to receive but did not from the date of application;
3. Initiate re-registration and reprocessing of Petitioner's SER application with property taxes dated in September of 2016, in accordance with Department policy and as the circumstances existed at the time of application;
4. Issue supplements to Petitioner for any SER benefits she was eligible to receive but did not from date of application; and

5. Notify Petitioner of her Cash assistance and SER decision.

EF/tm



Eric J. Feldman
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]
[REDACTED]
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[REDACTED]
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CC:

[REDACTED]
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