



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR



Date Mailed: May 2, 2017
MAHS Docket No.: 17-004426
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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. After due notice, telephone hearing was held on April 27, 2017, from Lansing, Michigan. The Petitioner represented himself. The Department was represented by [REDACTED], Family Independence Manager.

ISSUE

Did the Department of Health and Human Services (Department) properly deny Petitioner's State Emergency Relief (SER) application?

Did the Department of Health and Human Services (Department) properly determine Petitioner's eligibility for Food Assistance Program (FAP) benefits?

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 November 7, 2016, the Department received Petitioner's State Emergency Relief (SER) application requesting assistance with relocation expenses. Exhibit A, pp 3-10.
2. On January 18, 2017, the Department received Petitioner's Food Assistance Program (FAP) application. Exhibit A, pp 20-41.
3. Petitioner resides with a non-related person and he reported to the Department that he does not purchase and prepare food with this person but does pay her rent. Exhibit A, p 23.

4. The Petitioner receives monthly Supplemental Security Income (SSI) in the gross monthly amount of \$ [REDACTED] and State Supplemental Security Income (SSP) in the gross monthly amount of \$ [REDACTED]. Exhibit A, p 14.
5. On January 31, 2017, the Department received verification that Petitioner has a \$ [REDACTED] housing expense that he pays to his landlord, who lives in the home, and that his only other housing expense is for telephone service. Exhibit A, p 36 and 52.
6. Petitioner reported to the Department that he does not have any ongoing out of pocket medical expenses on his January 18, 2017, application for assistance. Exhibit A, p 36.
7. On November 9, 2016, the Department notified Petitioner that his State Emergency Relief (SER) application had been denied. Exhibit A, pp 17-19.
8. On February 7, 2017, the Department received Petitioner's request for a hearing protesting the denial of State Emergency Relief (SER) benefits and the amount of Food Assistance Program (FAP) benefits granted by the Department. Exhibit A, pp 64-65.

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).

State Emergency Relief (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.

Adults and dependent children who normally live together are in the same SER group. The SER group's landlord, provided the group pays fair market rent to live in the home. Department of Health and Human Services Emergency Relief Manual (ERM) 201 (October 1, 2015), pp 1-2.

On November 7, 2016, the Department received Petitioner's SER application requesting relocation assistance. On November 9, 2016, the Department notified Petitioner that his SER application had been denied because the co-payment he would be required to pay was larger than the amount needed to avoid the emergency.

However, the Department determined the co-payment amount considering the earned income of his landlord, who lives in the home. Petitioner's landlord should be excluded

from his SER group by ERM 201, and her income should not have been considered when determining eligibility for SER benefits.

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 was not acting in accordance with policy when it denied Petitioner's SER application based on the amount of his co-payment.

The Department's representative argued that Petitioner's application would have been denied regardless of the group income because no evidence of an eviction was supplied to the Department.

However, since the application was denied based on financial criteria, it is not clear that Petitioner was asked to supply verification of his emergency situation. The Department has not established that Petitioner was not homeless or potentially homeless, and there is insufficient evidence that Petitioner is not eligible for SER benefits.

Food Assistance Program (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 is an ongoing FAP recipient and reapplied for benefits on January 18, 2017. Petitioner received a gross monthly income of \$█, which is the total of his SSI and SSP benefits. Petitioner's adjusted gross income of \$█ was determined by reducing his total monthly income of \$█ by the \$█ standard deduction. Petitioner did not report any countable medical or child support expenses. Petitioner entitled to an \$█ monthly shelter deduction, which was determined by adding his \$█ housing expenses to the \$█ standard telephone expense deduction, then reducing this amount by 50% of his adjusted gross income.

Petitioner's net income of \$█ was determined by reducing his adjusted gross income by the shelter deduction. A group of one with a net income of \$█ is entitled to a \$█ monthly allotment of FAP benefits. Department of Health and Human Services Reference Table Manual (RFT) 260 (October 1, 2016).

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 the Food Assistance Program (FAP).

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED** with respect to the Food Assistance Program (FAP).

Accordingly, the Department's decision is **REVERSED** with respect to the State Emergency Relief (SER) application.

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:

Initiate a determination of the Petitioner's eligibility for State Emergency Relief (SER) benefits in accordance with policy with adequate notice to Petitioner.

KS/nr



Kevin Scully
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]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Petitioner

[REDACTED]