



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: [REDACTED] May 17, 2017
MAHS Docket No.: 17-004436
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

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 [REDACTED], from [REDACTED], Michigan. Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Assistance Payments Supervisor (APS).

ISSUE

Did the Department properly determine Petitioner's eligibility for Food Assistance Program (FAP), State Emergency Relief (SER), and Direct Support Services (DSS)?

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 already a recipient of FAP benefits.
2. On [REDACTED], Petitioner applied for FAP, SER for furnace repair, relocation, water/sewage bill, assistance with car repairs, and reported that she was paying her utilities. Department Exhibit 1, pgs. 10-37.
3. On [REDACTED], the Department Caseworker sent Petitioner, a Denial Notice, for SER because she was renting, and did not own, the house at [REDACTED]. In addition, she did not have a court ordered eviction or a shut off notice for water/sewage.

4. On [REDACTED], the Department received a hearing request from Petitioner, contesting the Department's negative action.

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 Food Assistance Program [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 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.

Direct Support Services (DSS) is established by the Social Welfare Act, MCL 400.1-.119b. The program is administered by the Department pursuant to MCL 400.10 and 400.57a, and Mich Admin Code, R 400.3603.

In this case, Petitioner was already a recipient of FAP benefits. On [REDACTED], Petitioner applied for FAP, SER for furnace repair, relocation, water/sewage bill, assistance with car repairs, and reported that she was paying her utilities. Department Exhibit 1, pgs. 10-37. On [REDACTED], the Department Caseworker sent Petitioner, a Denial Notice, for SER because she was renting, and did not own, the house at [REDACTED]. In addition, she did not have a court ordered eviction or a shut off notice for water/sewage. On [REDACTED], the Department received a hearing request from Petitioner, contesting the Department's negative action. ERM 303, 302, and 304. BEM 550 and 554. BAM 600.

During the hearing, the APS stated that Petitioner was not employed, so she was not eligible for DSS, which is at the discretion of the county. She did not own her home, so she was not eligible for any repair services. Petitioner was not eligible for relocations services because she did not have a court ordered eviction. SER could not pay her water/sewage bill because she did not have a shut off notice as required in policy. Petitioner's FAP has fluctuated monthly based on the medical bills submitted. Petitioner is eligible for the medical deduction for FAP because she is receiving Social Security RSDI benefits Department Exhibit 1, pgs. 54-56, but her husband is not considered disabled, senior, or a veteran, so he is not eligible for the FAP medical deduction.

Previously, Petitioner was not responsible and did not pay her utilities, which made her not eligible for the heating and utility standard deduction for FAP. Department Exhibit 1, pgs. 57-59. On her application of [REDACTED], she stated that she was paying her utilities. However, the Department Caseworker missed that item because she was already receiving FAP and did not ask for verifications of her utility payments. As a result, this Administrative Law Judge finds that Petitioner is eligible for the heating and utility standard deduction for FAP, retroactive to her [REDACTED], application. The Department testified that they already have a copy of utility bills verified on [REDACTED]. Since her application was filed with the Department on [REDACTED], which was after the [REDACTED] of the month, the budget would be affected for [REDACTED].

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 the Department acted in accordance with Department policy when it determined that Petitioner was not eligible for SER and DSS. However, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Petitioner eligibility for the heating and utility standard deduction for FAP based on her application of [REDACTED].

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to SER and DSS, and **REVERSED IN PART** with respect to FAP.

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 of initiating a redetermination of the Petitioner's eligibility for FAP retroactive to her FAP application dated [REDACTED], by determining her FAP eligibility based on the heating and utility standard deduction for FAP.

CF/bb



Carmen G. Fahie
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]