



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: September 22, 2017  
MAHS Docket No.: 17-008307  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Denise McNulty**

### **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; 42 CFR 438.400 to 438.424; 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 August 7, 2017, from Detroit, Michigan. The Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator.

### **ISSUES**

1. Whether the Department properly excluded Petitioner from the group when determining Family Independence Program (FIP) benefits based on Petitioner's receipt of supplemental security benefits?
2. Whether the Department properly reduced Petitioner's Food Assistance Program (FAP) benefits?
3. Whether the Department properly denied Petitioner's applications for State Emergency Relief (SER) funds?

### **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 an ongoing recipient of FIP and FAP benefits.

2. On January 31, 2017, the Department sent Petitioner a Notice of Case Action notifying her that she was approved for FIP benefits in the amount of \$ [REDACTED] per month. At the hearing, Petitioner withdrew her request for hearing regarding her FIP benefits. Petitioner was satisfied with the Department's actions.
3. On March 27, 2017, Petitioner applied for SER relating to relocation. On March 28, 2017, Petitioner's application was approved in error.
4. On May 2, 2017, Petitioner applied for SER for assistance in resolving a water shutoff.
5. On May 17, 2017, the Department sent Petitioner a SER Decision Notice notifying Petitioner that her application for assistance relating to the water shutoff was denied. The Department found that her copayment exceeded the need.
6. In March 2017, Petitioner's FAP benefits reduced when the group size decreased with the reported change of an adult child moving out of the home. This change resulted in the benefits decreasing to \$ [REDACTED] per month.
7. In May 2017, Petitioner reported another change of an adult child not purchasing or preparing food with the group. This change resulted in the benefits decreasing to \$ [REDACTED] per month.
8. On May 17, 2017, the Department sent Petitioner a Notice of Case Action notifying her that her FAP benefits would decrease beginning June 1, 2017.
9. On June 13, 2017, Petitioner filed a Request for Hearing disputing the Department's actions relating to her FIP benefits, FAP benefits and SER applications.
10. On June 23, 2017, the Department sent Petitioner a Notice of Case Action notifying her that the SER application for assistance with relocation expenses was denied.

### **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 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.

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.

In this case, Petitioner submitted a request for hearing to dispute the Department's actions with regard to her cash benefits (FIP), food assistance (FAP) benefits and her requests for emergency relief (SER).

#### **FIP**

At the beginning of the hearing, Petitioner withdrew her request for a hearing regarding cash benefits (FIP). BAM 600 (October 2016), p. 30. The Department did not object to the withdrawal. Petitioner's request for a hearing was not timely as to that issue, and Petitioner did not wish to contest that issue.

Petitioner's request for hearing regarding FIP benefits is dismissed.

#### **FAP**

A client is required to report a change in the persons in the home within 10 days after becoming aware of the change. BAM 105 (October 2016), p. 12. Petitioner reported the change of her son moving out of the home in March 2017 and her adult daughter not purchasing or preparing food with the other group members. Removal of the two adults from the group reduced the group to three members. The Department had 10 days in which to take any action regarding the reported change after becoming aware of the information. BAM 220 (October 2016), p. 7. The Department was also made aware that Petitioner did not have any housing expenses. The Department prepared new budgets utilizing the new information which resulted in a reduction in FAP benefits.

The Department included all of Petitioner's income in the budget when determining her benefits. [Exhibit A, pp. 31-33.] Petitioner receives \$ [REDACTED] in Supplemental Security Disability (SSD) benefits, \$ [REDACTED] per month in State SSI Payments (SSP) benefits, \$ [REDACTED] in Family Independence Program (FIP) benefits and \$ [REDACTED] in Supplemental Security Income (SSI). The Department testified that it calculates the SSP benefits at a rate of \$ [REDACTED] per month. Accordingly, the Department calculated Petitioner's monthly income as \$ [REDACTED] per month. [Exhibit A, pp. 21-24.]

Based on Petitioner's circumstances, her three-person group was eligible to receive a standard deduction of \$ [REDACTED] RFT 255, p. 1. (October 2016). In the budget, the Department mistakenly calculated that Petitioner was eligible to receive a shelter deduction in the amount of \$ [REDACTED] per month. BEM 556 (July 2013). When the standard deduction and shelter deduction were subtracted from Petitioner's income, the net income amount was \$ [REDACTED] [Exhibit A, pp. 31-33.] At the hearing, the Department noted that the shelter deduction was incorrect because Petitioner was still being given the heat/utility standard. Petitioner no longer had shelter expenses because, at the time of preparation of the budget, she was homeless. The removal of a housing expense was another reason the benefit amount decreased.

On May 17, 2017, the Department sent Petitioner a Notice of Case Action which notified her that she was approved for FAP benefits in the amount of \$ [REDACTED] per month effective June 1, 2017. [Exhibit A, pp. 21-24.] Based on the information available to the Department, Petitioner's benefit amount was incorrectly determined because according to the Department the heat/utility standard should not have been applied since Petitioner was homeless and had no shelter expenses. The addition of the heat/utility standard resulted in a miscalculation of the benefit amount.

### **SER**

In March 2017, Petitioner submitted a SER application seeking Emergency Service (ES) funds to assist her in relocating to new housing. On May 2, 2017, Petitioner submitted a second SER application through which she sought help with an outstanding water/sewer bill. Petitioner's SER application for relocation assistance was still pending at the time of Petitioner's request for hearing.

An SER application must be submitted and eligibility must be determined prior to any service or cost being paid using ES funds. ERM 209 (October 2015), p. 1. When determining a client's eligibility, the payment maximum, required payments, income and asset copayment and client contributions are to be calculated. ERM 103 (October 2015), p. 2. Emergency Service funds can be used to assist clients with rental payments, security deposits in order to establish or maintain safe housing. ERM 209 (October 2015), p. 3. According to the Department, all the required calculations were not completed prior to the March and April Notices of Case Action being mailed out to Petitioner regarding the SER for relocation funds. Subsequent to Petitioner's request for hearing, the Department issued a Notice of Case Action denying Petitioner's SER application. It was sent to Petitioner on June 23, 2017, notifying her that the SER application was denied due to the amount of her copayment. [Exhibit A, pp. 56-58.]

The request for hearing regarding the pending SER application for relocation assistance is dismissed as the pending nature of the application was resolved by the Department when it issued the June 2017 Notice of Case Action. Petitioner has the opportunity to request a hearing regarding the denial of her application in the Notice of Case Action issued on June 23, 2017.

Funds can also be issued if a client is in arrears on water/sewer utility payments, and at risk of shut off. ERM 209 (October 2015), p. 3. For any covered utility service, the payment of ES funds must restore or continue service at the current residence. ERM 302 (October 2013), p. 1. However, if the bill must be paid to start or maintain service at the current or new address, payment may be authorized up to the fiscal year cap as long as the payment resolves the emergency. ERM 302 (October 2013), p. 1. The fiscal year cap for water/sewer utility payments is \$██████████ ERM 302 (October 2013), p. 2. Petitioner needed to pay a \$██████████ water/sewer bill in order to get water connected at the new address. [Exhibit A, p. 108.] At the hearing, the Department indicated that Petitioner's water/sewer SER was denied because it was not connected to the family's current address. It is found that the Department did not act in accordance with policy with regard to the water/sewer SER when it was denied because it was not connected to the family's current address.

### **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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it decreased Petitioner's FAP benefits with an effective date of July 1, 2017, and when it denied Petitioner's SER application regarding with water/sewer expenses.

It is further found that Petitioner's request for hearing regarding the SER application for assistance with relocation is no longer pending since the Department issued a Notice of Case Action on June 23, 2017, denying said application; therefore, the request for hearing is **DISMISSED**.

Petitioner's request to withdraw her request for a hearing regarding FIP benefits is granted, and the request for hearing is hereby **DISMISSED**.

Accordingly, the Department's decisions regarding the SER application for assistance with the water/sewer bill and the decision regarding FAP benefits are **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. Reprocess and redetermine Petitioner's SER application for assistance with the water/sewer bill.
2. To notify Petitioner of the decision regarding her eligibility for assistance with the water/sewer bill.

3. Recalculate Petitioner's FAP budget and to provide Petitioner notice of any actions taken as the result of said calculations.



DM/jaf

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**Denise McNulty**  
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

