



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: October 18, 2017
MAHS Docket No.: 17-011349
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 October 9, 2017, from [REDACTED] Michigan. The Petitioner represented herself. The Department was represented by [REDACTED], Assistance Payments Supervisor, and [REDACTED] Assistance Payments Supervisor.

ISSUE

Did the Department of Health and Human Services (Department) properly determined Petitioner's eligibility for Food Assistance Program (FAP), Medical Assistance (MA), and State Emergency Relief (SER) 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. Petitioner was an ongoing Food Assistance Program (FAP) recipient through April 30, 2017. Exhibit A, p 12.
2. Petitioner received prorated Food Assistance Program (FAP) benefits effective May 8, 2017, through May 31, 2017.
3. On April 11, 2017, the Department received Petitioner's request for a hearing protesting the Food Assistance Program (FAP), Medical Assistance (MA), and State Emergency Relief (SER).

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 (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 Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

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.

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The Department will provide an administrative hearing to review the decision and determine the appropriateness. The Michigan Administrative Hearing System (MAHS) may grant a hearing for any of the following:

- Denial of an application and/or supplemental payments.
- Reduction in the amount of program benefits or service.
- Suspension or termination of program benefits or service.
- Restrictions under which benefits or services are provided.
- Delay of any action beyond standards of promptness.
- For FAP only, the current level of benefits or denial of expedited service. Department of Human Services Bridges Administrative Manual (BAM) 600 (October 1, 2015), pp 3-4.

A request for hearing must be in writing and signed by the claimant, petitioner, or authorized representative. Rule 400.904(1). Moreover, the Department of Human Services Bridges Administrative Manual (BAM) 600 (October 1, 2015), p. 6, provides in relevant part as follows:

The client or authorized hearing representative has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received anywhere in DHS within the 90 days.

Petitioner was an ongoing FAP recipient in April of 2017, when her FAP benefits apparently closed. Petitioner reapplied for FAP benefits, but received prorated benefits, which was an effective reduction of FAP benefits in May of 2017, based on the apparent closure of FAP benefits.

Petitioner testified that her MA benefits were closed.

Petitioner testified that her SER application was denied.

Petitioner testified that she submitted verification of her income to the Department, which the Department denied receiving.

However, no evidence of the Department requesting verification of Petitioner's evidence was available on the record.

The Department failed to offer any Notice of Case Action (DHS-1605) or Health Coverage Notice (DHS-1606) forms as evidence. Further, the Department's explanation of any negative action that was timely with respect to Petitioner's April 11, 2017, request for a hearing have been clouded by subsequent actions taken by 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 failed to satisfy its burden of establishing that it acted in accordance with Department policy when it determined Petition with respect to Petitioner's eligibility for Food Assistance Program (FAP) and Medical Assistance (MA) benefits effective May 1, 2017.

State Emergency Relief (SER) prevents serious harm to individuals and families. SER assists applicants with safe, decent, affordable housing and other essential needs when an emergency situation arises. Department policy required that SER applications have an emergency which threatens health or safety and can be resolved through issuance of SER. Department of Health and Human Services Emergency Relief Manual (ERM) 101 (March 1, 2013), p 1. As a condition of SER eligibility, all the adults in the SER group must agree to take actions within their ability to make potential resources available. Potential resource means an asset or income that may be available to a client if action is taken to make this available. Department of Health and Human Services Emergency Relief Manual (ERM) 203 (June 1, 2013), p 1.

Petitioner testified that her SER application was denied. Based on the evidence and testimony available during the hearing, this Administrative Law Judge finds that Petitioner failed to establish an emergency situation before April 11, 2017, that remains a current emergency situation that can be resolved through SER benefits.

Therefore, Petitioner's request for a hearing is dismissed with respect to the State Emergency Relief (SER) program.

DECISION AND ORDER

Accordingly, the Department's decision is **REVERSED** with respect to Food Assistance Program (FAP) and Medical Assistance (MA) only.

Petitioner's request for a hearing is **DISMISSED** with respect to State Emergency Relief (SER).

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 Food Assistance Program (FAP) and Medical Assistance (MA) effective May 1, 2017.

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]

Petitioner

[REDACTED]