



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: November 9, 2017
MAHS Docket No.: 17-013302
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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 November 8, 2017, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Wanda Dexter, Eligibility Specialist, and Lavina Gresham, Eligibility Specialist.

ISSUE

1. Did the Department properly deny Petitioner's State Emergency Relief (SER) application?
2. Did the Department properly determine Petitioner's Food Assistance Program (FAP) benefit amount?

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 FAP benefit recipient.
2. On [REDACTED], 2017, Petitioner submitted an application for SER benefits for rent to prevent eviction (Exhibit A).
3. Petitioner had unearned income in the form of child support for two of her children; Retirement, Survivors, and Disability Insurance (RSDI) for two of her children; and Supplemental Security Income (SSI) for one of her children (Exhibit C).

4. Petitioner's group consisted of herself and her four children.
5. On September 25, 2017, the Department sent Petitioner a State Emergency Relief Decision Notice informing Petitioner she was not eligible for SER benefits.
6. As of September 1, 2017, Petitioner's FAP benefit amount decreased.
7. On September 29, 2017, Petitioner submitted a request for hearing regarding her SER application denial and FAP benefit amount.

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).

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.

In this case, Petitioner requested a hearing, in part, because she disagreed with her FAP benefit issuance amount. Petitioner stated her benefits decreased beginning May 1, 2017, and September 1, 2017. The Department had no information as to when Petitioner was issued decisions regarding her FAP benefits. However, Petitioner's September 29, 2017 hearing request would not be timely to address her benefits for May 1, 2017, ongoing, as a decision would have been rendered prior to May 1, 2017. A request for a hearing must be submitted within 90 days from the date of the written notice of case action. BAM 600 (April 2017), p. 6. However, an exception applies to FAP cases and a request for a hearing disputing the current level of benefits may be made any time within the benefit period. BAM 600, p. 7. "Current" is interpreted to refer to the client's eligibility as of the hearing request month. Based on Petitioner's hearing request submission from September 29, 2017, Petitioner may dispute September 2017 FAP eligibility ongoing.

The Department presented no evidence as to the calculation of Petitioner's FAP benefit amount. Therefore, the Department failed to establish it followed policy when determining Petitioner's FAP benefit amount.

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.

In this case, Petitioner submitted an application for SER benefits on [REDACTED], 2017. Petitioner was requesting assistance for her rent payment to avoid eviction. According to the application, the amount needed to prevent eviction was \$702. (Exhibit A, p. 11). Petitioner received monthly child support payments for two of her children. Each child received \$344.06 per month. Two of Petitioner's children also received RSDI benefits. Each child received \$258 per month in RSDI benefits. One of Petitioner's children received a monthly payment of \$735 in SSI benefits. The Department calculated Petitioner's monthly income to be \$1,939. Petitioner testified those figures were correct. The Department denied Petitioner's application for SER benefits because her copayment exceeded the total need.

SER assists individuals and families to resolve or prevent homelessness by providing money for rent, security deposits, and moving expenses. ERM 303 (October 2015), p. 1. SER group members must use their available income and cash assets that will help resolve the emergency. ERM 208 (February 2017), p. 1. 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 most cases, cash assets in excess of \$50 result in an asset copayment. ERM 208, p. 1. 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. 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. ERM 208, p. 1. When processing an application, if the copayment, shortfall, contribution or combination exceeds the need, the application shall be denied. ERM 103 (February 2017), p. 4.

There was no evidence Petitioner had any asset copay. Petitioner's income (\$1,939) deducted by the need standard for a group of five (\$885) is \$1,054. ERM 208, p. 5. In the application, Petitioner indicated she needed \$702 to avoid eviction. As Petitioner's copayment exceeded the need, the Department acted in accordance with policy when it denied Petitioner's application for SER benefits.

DECISION AND ORDER

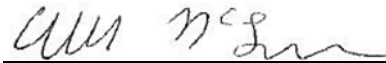
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to establish that it acted in accordance with policy when it determined Petitioner's FAP benefit amount. The Department established that it acted in accordance with policy when it denied Petitioner's application for SER benefits.

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to Petitioner's application for SER benefits and **REVERSED IN PART** with respect to Petitioner's FAP benefit amount.

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. Redetermine Petitioner's FAP eligibility as of September 1, 2017, ongoing;
2. If Petitioner is eligible for additional FAP benefits, issue supplements Petitioner was eligible to receive but did not as of September 1, 2017, ongoing;
3. Notify Petitioner of its FAP decision in writing.

EM/



Ellen McLemore

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

MDHHS-Wayne-15-Hearings

Petitioner



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