



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR



Date Mailed: August 1, 2018
MAHS Docket No.: 18-006434
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Landis Lain

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 July 26, 2018, from Lansing, Michigan. Petitioner was represented by herself. The Department of Health and Human Services (Department or Respondent) was represented by Gregory Folsom, Hearings Facilitator.

Respondent's Exhibits 1-29 were admitted as evidence.

ISSUE

Did the Department properly deny Petitioner's application for State Emergency Relief (SER) and reduction of Food Assistance Program (FAP)?

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 is a FAP benefit recipient.
2. On [REDACTED], 2018, Petitioner filed a SER application for assistance with heat and electricity.
3. On June 1, 2018, the Department sent Petitioner a verification checklist with information due by June 8, 2018.

4. On June 8, 2018, the Department sent Petitioner a state emergency relief decision notice indicating that Petitioner's request for assistance is denied because Petitioner failed to verify, or allow the Department to verify, information necessary to determine eligibility for the program.
5. On June 12, 2018, Petitioner provided verification of assets and income.
6. On June 13, 2018, the Department sent Petitioner a notice of case action stating that her food assistance program benefits would be decreased to \$237.00 per month because the net earned income amount had changed.
7. On June 18, 2018, Petitioner filed a request for hearing to contest the Department's negative action.
8. On June 18, 2018 a Pre-Hearing conference letter was sent to Petitioner scheduling the Pre-Hearing Conference for June 28, 2018.
9. Petitioner did not attend the Pre-Hearing Conference.
10. On July 5, 2018, the Michigan Administrative Hearing System received the hearing summary and attached documents.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance has been denied. MAC R 400.903(1). 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 of that decision. BAM 600.

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.

Pertinent FAP policy indicates:

Federal regulations at 42 CFR 435.831 provides standards for the determination of the MA monthly protected income level. The department follows the program reference manual, tables, charts, schedules, table 240-1.

Pertinent Department policy dictates:

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
(April 1, 2017), pp 3-4.

The client or AHR has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received in the local office within the 90 days. BAM 600, page 6

Income means a benefit or payment received by an individual which is measured in money. It includes money an individual owns even if not paid directly such as income paid to a representative. Income remaining after applying the policy in the income related items is called countable. This is the amount used to determine eligibility and benefit levels. Count all income that is not specifically excluded. BEM 500, page 1

Gross income is the amount of income before any deductions such as taxes or garnishments. This may be more than the actual amount an individual receives. BEM 500, pages 4-5

Use only available, countable income to determine eligibility. The Bridges Eligibility Manual (BEM) 500 series defines countable income. BEM 505 defines available income and income change processing. This item describes income budgeting policy.

Always calculate income on a calendar month basis to determine eligibility and benefit amounts. Use income from a month specified in this item for the benefit month being considered. Budget the entire amount of earned and unearned countable income. Every

case is allowed the standard deduction shown in Reference Tables Manual (RFT) 255. Document income budgeting on either a manually-calculated or an automated FAP worksheet. (BEM 550, page 1)

For the month of June 1, 2018, through May 31, 2019, the Department determined that Petitioner receives earned income in the amount of \$948.00. Petitioner also receives \$319.00 in countable unearned income. Petitioners total monthly income is \$1,267.00. Petitioner received an earned income deduction in the amount of \$190.00 and a standard deduction of \$160.00. Petitioners adjusted monthly gross income is \$917.00. Petitioner received an excess shelter deduction of \$535.00; \$917.00 minus \$535.00 equals \$382.00 in net income. The maximum benefit amount for a two-person household is \$352.00 in monthly food assistance program benefits. Thirty of Petitioner's net income is \$115.00; \$352.00 in maximum benefit allowed minus \$115.00 in net income equals a monthly FAP benefit of \$237.00.

The Department properly determined that Petitioner's monthly allotment of FAP benefits must be reduced to \$237.00 under the circumstances.

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.

Pertinent SER policy indicates:

SER applicants can file or obtain an application until at least 5:00 p.m. each business day. Accept and register an application for SER if the following information is provided:

- Applicant name.
- Address or statement of homelessness.
- Birthdate.
- Applicant's or authorized representative's signature.

Applicant Responsibilities Applicants must cooperate with the following:

- The application process.
 - Provide verifications.
 - Answer all questions truthfully and completely, whether written or oral.
- Deny SER if applicants refuse to take action or provide information within their ability, or withdraw their application. (ERM 102, 1)

Verify all non-excluded income, expenses and deductions. For energy services, income verification used in the current eligibility determination for any other DHS program may be used if available. If not available, income must be verified; see ERM 301, Energy Services. (ERM 206, page 6)

Tell the client what verification is required, how to obtain it, and the due date; see Timeliness of Verifications in this item. Use the DHS-3503, Verification Checklist (VCL), to request verification. (BAM 130, page 3)

The client must obtain required verification, but the local office must assist if they need and request help. If neither the client nor the local office can obtain verification despite a reasonable effort, use the best available information. If no evidence is available, use your best judgment. (BAM 130, page 3)

Clients must be informed of all verifications that are required and where to return verifications. The due date is eight calendar days beginning with the date of application. If the application is not processed on the application date, the deadline to return verifications is eight calendar days from the date verification is requested. This does not change the standard of promptness date. Note: When the eighth day falls on a state-observed holiday, the due date for verifications to be returned will be extended to the following business day. Use the DHS-3503, SER Verification Checklist, to request verification and to notify the client of the due date for returning the verifications. The client must make a reasonable effort to obtain required verifications. The specialist must assist if the applicant needs and requests help. If neither the client nor the specialist can obtain the verifications despite a reasonable effort, use the best available information. If no evidence is available, the specialist must use their best judgment. (ERM 103, page 7)

In this case, Petitioner did not provide verification of assets and income in a timely manner for state emergency relief eligibility. Petitioner provided verification on June 12, 2018, which is 11 days after the verification checklist was sent to Petitioner. Petitioner testified on the record that she contacted the Department after hours on June 8, 2018, because that is when she received the verification checklist. Petitioner testified that she left a message for a caseworker but never received a return call. Petitioner did not testify that she called the caseworker back and requested an extension of time or came into the office at any time before June 12, 2018. Petitioner did not provide verification of assets and income in a timely manner. The Department has established by the necessary competent, material, and substantial evidence on the record that it was acting in compliance with Department policy when it determined that Petitioner state emergency relief application should be denied because Petitioner failed to provide verification information in a timely manner. The Department has also established that Petitioner should receive FAP benefits in the amount of \$237.00, based upon the verification of income and assets she provided on June 12, 2018. The Department has established its case by a preponderance of the evidence. The Department's actions must be upheld under the circumstances.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

LL/bb

A handwritten signature in cursive script, reading "Landis Lain", is written over a horizontal line.

Landis Lain
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) 763-0155; 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

Mark Epps
4809 Clio Road
Flint, MI 48504

Genesee County (Clio Road), DHHS

BSC2 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

[REDACTED]