



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: August 29, 2018
MAHS Docket No.: 18-007687
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, a telephone hearing was held on August 23, 2018, from Lansing, Michigan. Petitioner was represented by himself. The Department of Health and Human Services was represented by Eileen Cott, Family Independence Manager, and Dale Daniely, Eligibility Specialist.

ISSUE

Did the Department of Health and Human Services (Department) properly deny Petitioner's application for State Emergency Relief (SER)?

Did the Department of Health and Human Services (Department) properly close Petitioner's Food Assistance Program (FAP) 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.
2. On [REDACTED], 2018, the Department received Petitioner's application for State Emergency Relief (SER) requesting assistance with a property tax obligation. (See MAHS Docket Nos 18-003007 and 18-003828).
3. On March 18, 2018, the Department notified Petitioner that his State Emergency Relief (SER) application had been denied. (See MAHS Docket Nos 18-003007 and 18-003828).

4. On March 21, 2018, the Department received a request for a hearing protesting the denial of his State Emergency Relief (SER) application. (See MAHS Docket Nos 18-003007 and 18-003828).
5. On May 18, 2018, Michigan Administrative Hearing System (MAHS) ordered the Department to re-register and reprocess Petitioner's State Emergency Relief (SER) application dated March 14, 2018, as the circumstances existed at the time of application. (See MAHS Docket Nos 18-003007 and 18-003828).
6. On May 18, 2018, Michigan Administrative Hearing System (MAHS) determined that the Department had properly closed Petitioner's Food Assistance Program (FAP) effective April 1, 2018, the end of his benefit period, for failure to complete the eligibility redetermination process. (See MAHS Docket Nos 18-003007 and 18-003828).
7. The Department received a memorandum dated January 12, 2018, indicating that Petitioner receives income as an independent contractor and expects to work 30 to 35 hours per week at a rate of \$[REDACTED] per hour.
8. The Department received an undated memorandum indicating that Petitioner receives income as an independent contractor and expects to work 40 hours per week at a rate of \$[REDACTED] per hour.
9. On June 11, 2018, the Department sent Petitioner a Verification Checklist (DHS-3503) requesting verification of his assets, tax foreclosure, and the amount of taxes needed to resolve the emergency by June 25, 2018.
10. On June 14, 2018, the Department sent Petitioner a Verification Checklist (DHS-3503) requesting Petitioner provide verification of his income and shelter expenses by June 25, 2018.
11. On July 11, 2018, the Department issued a certification (DHS-1843) indicating that the actions contained in the May 18, 2018, order were completed on July 11, 2018.
12. On July 11, 2018, the Department notified Petitioner that his State Emergency Relief (SER) application had been denied for failure to provide the Department with information necessary to determine his eligibility to receive benefits.
13. On July 23, 2018, the Department received Petitioner's request for a hearing protesting the denial of his State Emergency Relief (SER) application and the closure of his Food Assistance Program (FAP) benefits.
14. On August 3, 2018, the Department notified Petitioner that he was not eligible for Food Assistance Program (FAP) benefits as of June 1, 2018.

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.

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 (January 1, 2018), 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 (January 1, 2018), 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.

The Department closed Petitioner's FAP benefits effective April 1, 2018. This action was upheld by order of MAHS on May 18, 2018, and cannot be addressed by this hearing decision.

Petitioner re-applied for FAP benefits on or around June 14, 2018, and the Department requested that he provide verification of his income by June 25, 2018. After giving Petitioner an extension to the due date to provide verification of his income, the Department notified Petitioner that he was not approved for FAP benefits on August 3, 2018.

All earned and unearned income available is countable unless excluded by policy. Earned income means income received from another person or organization or from self-employment for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMA), alimony, and child support payments. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. Department of Human Services Bridges Eligibility Manual (BEM) 500 (July 1, 2017).

Wages are considered earned income. Wages are the pay an employee receives from another individual organization or S-Corp/LLC. Wages include salaries, tips, commissions, bonuses, severance pay, and flexible benefit funds not used to purchase insurance. BEM 501, p 6.

Individuals who run their own businesses are self-employed. This includes but is not limited to selling goods, farming, providing direct services, and operating a facility that provides services such as adult foster care home or room and board. S-Corporations and Limited Liability Companies (LLCs) are not self-employment. Department of Health and Human Services Bridges Eligibility Manual (BEM) 502 (July 1, 2017), p 1.

Clients must cooperate with the local office in determining initial and ongoing eligibility and this includes the completion of necessary forms. Department of Human Services Bridges Assistance Manual (BAM) 105 (January 1, 2018), p 8.

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level when it is required by policy, required as a local office option, or information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. The Department uses documents, collateral contacts, or home calls to verify information. A collateral contact is a direct contact with a person, organization, or agency to verify information from the client. When documentation is not available, or clarification is needed, collateral contact may be necessary. Department of Human Services Bridges Assistance Manual (BAM) 130 (April 1, 2017), pp 1-10.

Petitioner argued that he is an independent contractor and not an employee, and therefore his income is different.

Regardless of whether Petitioner has taxes withheld from his income, and how he files his income taxes is irrelevant to his eligibility for FAP benefit. The record evidence supports a finding that Petitioner receives earned income, which must be verified by the Department to accurately determine his eligibility for FAP benefits. On June 11, 2018, the Department requested that Petitioner verify his income. No evidence was presented on the record to establish that Petitioner provided the Department with verification of his income for the 30 days before June 14, 2018. Therefore, the Department was acting in accordance with policy when it denied FAP benefits effective June 1, 2018.

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.

On [REDACTED], 2018, the Department received Petitioner's application for SER benefits. On March 18, 2018, the Department denied Petitioner's SER application. On May 18, 2018, MAHS ordered to the Department to reprocess Petitioner's [REDACTED], 2018, SER application and redetermine his eligibility for SER benefits.

On June 11, 2018, the Department requested that Petitioner provide verification of his assets, tax foreclosure status, and the amount of taxes needed to resolve the emergency by June 25, 2018.

SER helps to prevent loss of a home if no other resources are available and the home will be available to provide safe shelter for the SER group in the foreseeable future. Property taxes and fees are a service that can be covered by SER benefits. The lifetime ownership services maximum is \$2,000. Individual services do not have separate lifetime maximums. The total tax arrearage amount is the total for every year combined, not just for the tax years which assistance is being requested. Department of Health and Human Services Emergency Relief Manual (ERM) 304 (October 1, 2017), pp 1-8.

In this case, Petitioner applied for SER benefits seeking assistance with his property taxes. Petitioner provided verification of his tax obligation due in 2018, but not that the property was at risk of foreclosure. Petitioner also did not provide verification of his total past due property tax obligation for all delinquent years, as required by ERM 304.

Petitioner argued that the City of Detroit only forecloses on individual tax year obligations and not the entire past due amount.

However, eligibility for SER benefits is determined based on the entire delinquent property tax obligation since receiving assistance for only one year of delinquent property taxes would not resolve the emergency. Assistance with only part of the obligation would leave the property at risk of foreclosure.

Further, the record evidence does not support a finding that Petitioner provided the Department with verification of his countable assets by June 25, 2018. Since countable

assets are used to accurately determine the co-payment necessary for a SER applicant, the Department was justified in denying Petitioner's SER application based solely on his failure to provide timely verification of his countable assets. Further, since there is an asset limit for the FAP program, failure to provide timely verification of countable assets would justify denying FAP benefits.

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 Petitioner's July 23, 2018, request for a hearing is dismissed with respect to the closure of Food Assistance Program (FAP) benefits effective April 1, 2018, because this issue has been addressed by another hearing decision. The Department acted in accordance with Department policy when it denied Food Assistance Program (FAP) effective June 1, 2018, for failure to verify his income. The Department acted in accordance with Department policy when it denied Petitioner's [REDACTED], 2018, State Emergency Relief (SER) application for failure to verify his tax obligation and his countable assets.

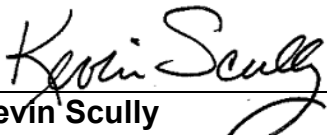
DECISION AND ORDER

Petitioner's request for a hearing is **DISMISSED** with respect to his eligibility for Food Assistance Program (FAP) benefits as of April 1, 2018.

The Department's denial of Food Assistance Program benefits as of June 1, 2018, is **AFFIRMED**.

The Department's denial of Petitioner's [REDACTED], 2018, application for State Emergency Relief (SER) benefits is **AFFIRMED**.

KS/hb



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) 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

Dora Allen
14061 Lappin
Detroit, MI 48205

Wayne County (District 76), DHHS

BSC4 via electronic mail

T. Bair via electronic mail

E. Holzhausen via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

[REDACTED]
[REDACTED], MI [REDACTED]