



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: September 20, 2018
MAHS Docket No.: 18-008434
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm

HEARING DECISION

Following Petitioner's August 13, 2018, hearing request, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, 7 CFR 273.15, and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on September 19, 2018, from Lansing, Michigan. Petitioner, [REDACTED] [REDACTED] appeared and represented herself. Petitioner did not have any additional witnesses. Hearing Facilitator, Richkelle Curney, appeared on behalf of the Department. The Department did not have any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 31-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

ISSUES

Did the Department properly determine Petitioner's Food Assistance Program (FAP) benefit?

Did the Department properly determine Petitioner's State Emergency Relief (SER) assistance?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On August 15, 2018, the Department issued a State Emergency Relief Decision Notice to notify Petitioner (a) that her request for water or sewage assistance was approved - the Department would pay \$175.00 after Petitioner paid \$1,087.00 and (b) that her request for electricity and heat assistance was denied because her request was not made during the crisis season.

2. On August 17, 2018, the Department issued a Notice of Case Action to notify Petitioner that she was approved for FAP in the amount of \$11.00 per month for August 2018 and \$15.00 per month thereafter. The Notice contained a budget which showed the Department used a total unearned income of \$ [REDACTED] per month and housing costs of \$113.15 per month. The total unearned income was composed of \$ [REDACTED] in child support plus \$ [REDACTED] in social security. The housing costs of \$113.15 per month was calculated based on Petitioner's 2017 property tax divided by 12 months.
3. Petitioner filed a hearing request to dispute the Department's decision on her request for SER and the amount of her FAP benefits.

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 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 did not present any evidence to establish that the Department did not properly apply its policies and the applicable law when it made its decision on Petitioner's request for SER. For energy related emergencies, the SER crisis season runs from November 1 through May 31; Requests for those services will be denied June 1 through October 31. ERM 301 (January 1, 2018), p. 1. The water cap is \$175.00 per fiscal year. ERM 302 (October 1, 2013), p. 1. The Department properly denied Petitioner's request for assistance with electric and heat because Petitioner applied in August 2018 and the Department's policy requires that all energy related requests made in August 2018 be denied because they do not fall within the crisis season of November through May. The Department granted Petitioner the maximum water assistance available to her, so no additional relief is available to Petitioner. For these reasons, the Department made the proper decision on Petitioner's request for SER.

Petitioner did not present any evidence to establish that the Department did not properly apply its policies and the applicable law when it determined her FAP benefit amount.

Petitioner alleged that the Department failed to take into account her correct housing expenses because the Department did not consider her monthly payment on her delinquent property taxes nor her homeowner's insurance payment. Petitioner also alleged that the Department erroneously counted child support as income because she never received it. Petitioner did not present sufficient evidence to support her allegations.

Regarding Petitioner's housing expenses allegation, the Department correctly determined Petitioner's monthly housing expenses based on the information it had available to it. The Department appropriately counted only the monthly amount of Petitioner's current year property taxes because that was the amount of the current property tax expense incurred and only the expense incurred in a given month can be used in the budget for that month. BEM 554 (August 1, 2017), p. 3. Petitioner also alleged that the Department failed to consider her homeowner's insurance. The Department acknowledged it did not consider a homeowner's insurance expense. However, Petitioner did not tell the Department about her homeowner's insurance when Petitioner applied for FAP benefits nor did Petitioner provide the Department with any proof of a homeowner's insurance expense. Thus, the Department had no way of knowing about Petitioner's homeowner's expense.

Regarding Petitioner's unearned income allegation, the Department correctly determined Petitioner's monthly unearned income based on the information it had available to it. The Department performed an income inquiry in its database which contains child support data. According to the child support data in the Department's inquiry, Petitioner received direct child support payments for her adult child, [REDACTED]. Client disputed the payments but did not present any evidence to prove that she received less than what the Department claimed. When the Department's income data is inconsistent with the client's statement, the client has the primary responsibility for obtaining verification. BEM 503 (July 1, 2017), p. 44. Petitioner could have obtained an affidavit from the father of [REDACTED] or records of payments from the office of child support as evidence to support her allegation that she received less than the Department claimed.

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 did act in accordance with its policies and the applicable law when it issued its August 15, 2018, State Emergency Relief Decision Notice and its August 17, 2018, Notice of Case Action on her FAP benefits.

IT IS ORDERED that the Department's decisions are AFFIRMED.

JK/nr



Jeffrey Kemm
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

Tara Roland 82-17
8655 Greenfield
Detroit, MI
48228

Wayne 17 County DHHS- via electronic
mail

BSC4- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

T. Bair- via electronic mail

E. Holzhausen- via electronic mail

Petitioner

[REDACTED]
MI