



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: February 27, 2019
MAHS Docket No.: 18-013049
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: John Markey

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 February 20, 2019, from Detroit, Michigan. Petitioner appeared and represented himself. The Department of Health and Human Services (Department) was represented by Susan Trebilcock, Eligibility Specialist, and Elizabeth Welke, Family Independence Manager. During the hearing, a 66-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-66.

ISSUE

Did the Department properly determine Petitioner's eligibility for Food Assistance Program (FAP) benefits?

Did the Department properly determine Petitioner's eligibility for State Disability Assistance (SDA) benefits?

Did the Department properly determine Petitioner's eligibility for 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. On [REDACTED], 2018, Petitioner submitted to the Department an application for FAP, SER, and SDA benefits. Exhibit A, pp. 52-66.

2. On October 19, 2018, the Department issued to Petitioner a State Emergency Relief Decision Notice denying Petitioner's application for SER relocation benefits. The document informed Petitioner that the denial was based on the Department's determination that the shelter was not affordable according to SER requirements. Exhibit A, pp. 32-34.
3. Also on October 19, 2018, the Department issued to Petitioner a Notice of Case Action approving Petitioner's application for FAP benefits. Petitioner was approved for a prorated amount of \$[REDACTED] for the time period from August 18, 2018 through August 31, 2018. Thereafter, Petitioner was approved for monthly FAP benefits in the amount of \$[REDACTED]. The Department based that calculation on Petitioner having zero income. Exhibit A, pp. 23-29.
4. On [REDACTED] 2018, Petitioner submitted to the Department an application for FAP and SER benefits. Exhibit A, pp. 36-51.
5. On October 30, 2018, the Department issued to Petitioner a State Emergency Relief Decision Notice denying Petitioner's application for SER relocation and rent benefits. The document informed Petitioner that the denial was based on the Department's determination that the shelter was not affordable according to SER requirements. Exhibit A, pp. 20-22.
6. At some point during the relevant time period, Petitioner was approved to start receiving \$[REDACTED] in RSDI per month, starting December 1, 2018.
7. On November 2, 2018, the Department issued to Petitioner a Notice of Case Action informing Petitioner that his monthly FAP benefits were being reduced to \$[REDACTED] effective December 1, 2018. Included was a budget showing that the Department was now budgeting Petitioner's \$[REDACTED] in unearned income starting December 1, 2018. Exhibit A, pp. 16-19.
8. On November 15, 2018, the Department issued to Petitioner a Notice of Case Action approving Petitioner's application for SDA benefits for the period from November 16, 2018 through November 30, 2018 in the amount of \$[REDACTED]. However, Petitioner was informed that his application was denied with respect to all months after November 2018. Exhibit A, pp. 8-11.
9. On November 21, 2018, the Department issued to Petitioner a Notice of Case Action informing Petitioner that his monthly FAP benefits were being increased to \$[REDACTED] effective December 1, 2018. Included was a budget showing that the Department was now budgeting \$[REDACTED] in unearned income, starting December 1, 2018. Exhibit A, pp. 1-4.
10. On [REDACTED], 2018, Petitioner submitted to the Department a request for hearing objecting to actions taken and determinations made with respect to Petitioner's eligibility for FAP, SER, and SDA 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).

In this case, Petitioner submitted to the Department an application for FAP, SDA, and SER benefits on [REDACTED] 2018. Petitioner then submitted another application for FAP and SER benefits on [REDACTED], 2018. Over the course of the next five weeks, a number of actions were taken with respect to Petitioner's applications. The end result was that Petitioner was denied any SER benefits, approved for FAP benefits, and approved for SDA benefits for half of the month of November 2018. Petitioner's position is that the Department improperly denied his SER applications and did not provide sufficient SDA and FAP benefits.

FAP DETERMINATIONS

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.

Petitioner applied for FAP benefits on [REDACTED], 2018. The following day, the Department issued a Notice of Case Action informing Petitioner that he was approved for FAP benefits of \$86 for the remaining days in October 2018 and \$[REDACTED] per month, effective November 1, 2018. The benefits amount was calculated based on a monthly income of \$0. At some point, Petitioner was approved to receive monthly RSDI income of what ultimately amounted to [REDACTED]. On November 21, 2018, the Department issued to Petitioner a Notice of Case Action informing Petitioner that, effective December 1, 2018, his monthly FAP benefits were being reduced to \$[REDACTED]. Thus, Petitioner received FAP benefits totaling \$[REDACTED] in October 2018, \$[REDACTED] in November 2018, and \$[REDACTED] in December 2018. Petitioner argues that this amount is not sufficient to provide all of his food needs for the month.

FAP Benefits October 18, 2018 through October 31, 2018

When an application for FAP benefits is filed during a month, the applicant may receive prorated FAP benefits for that month, so long as the amount is at least \$10. BEM 556 (April 2018), p. 6. All countable earned and unearned income available to the client must be considered in determining a client's eligibility for program benefits, and group composition policies specify whose income is countable. BEM 500 (July 2017), pp. 1-5. Additionally, the FAP calculation takes into consideration certain expenses and other

deductions that apply to reach a final net income for the purposes of determining the monthly FAP benefit amount. The maximum amount of monthly FAP benefits for a group size of one is \$192. RFT 260 (October 2018), p. 1.

Petitioner has a FAP group size of one. Petitioner's monthly income was \$0 at the time of the application. Thus, Petitioner was eligible for the maximum monthly benefit of \$192 for the month of October, prorated from the date of application. October has 31 days. Thus, for October, the maximum FAP benefit per day is \$6.19.¹

The Department issued to Petitioner \$[REDACTED] for the month of October 2018. That means that the Department issued 14 days-worth of FAP benefits. Petitioner applied for FAP benefits on October 18, 2018 and was issued those 14 days-worth of FAP benefits for a period of time that includes fewer than 14 days. Thus, if any error was made in determining Petitioner's FAP benefits for October 2018, it was in Petitioner's favor and will not be disturbed.

FAP Benefits November 1, 2018 through November 30, 2018

Petitioner received \$[REDACTED] in FAP benefits for the month of November 2018. That is the maximum amount allowable under law for Petitioner's group size, one. As that is the maximum amount allowable, no relief can be provided with respect to Petitioner's request for more.

FAP Benefits, Effective December 1, 2018, Ongoing

Starting December 1, 2018, however, Petitioner's monthly FAP benefits were reduced to \$[REDACTED]. This reduction was the result of the Department budgeting RSDI income of \$[REDACTED] per month, starting December 1, 2018. At the hearing, Petitioner agreed that effective December 1, 2018, he began receiving \$[REDACTED] per month in RSDI income.

As stated above, monthly FAP amounts are calculated by taking into account certain income and expenses. Whether an expense qualifies for inclusion into the formula is set by law and policy. It is not within the discretion of an Administrative Law Judge to include in the calculation expenses that are not allowable by law and policy.

Starting December 1, 2018, Petitioner's total income was \$[REDACTED] per month, all unearned. The standard deduction of \$[REDACTED] was then taken out, resulting in adjusted gross income of \$[REDACTED]. Petitioner did not report any child care, medical, or child support expenses. Thus, those deductions are not applicable. Furthermore, Petitioner did not report to the Department any expenses that law or policy would allow for inclusion in the calculation of FAP benefits. Thus, for the purposes of determining Petitioner's monthly FAP benefits, Petitioner's net income is equal to his adjusted gross income of \$[REDACTED].

¹ This figure is reached by dividing the maximum benefit amount of \$192 for the month by the number of days in the month, which is 31.

The Food Assistant Issuance Table shows \$[REDACTED] in benefits for \$[REDACTED] net income for a household of one. RFT 260 (October 2018), p. 2. This is the amount determined by the Department and is correct. The Department acted in accordance with Department policy when it determined Petitioner's FAP benefits for December of 2018 ongoing.

SDA DETERMINATIONS

The State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. The Department of Health and Human Services (formerly known as the Department of Human Services) administers the SDA program pursuant to 42 CFR 435, MCL 400.10 and Mich Admin Code, R 400.3151-.3180.

To receive SDA, a person must be disabled, caring for a disabled person, or age 65 or older. BEM 261 (April 2017), p. 1. SDA is only approved for those who have a financial need, which is determined to exist when budgetable income is less than the payment standard established by the Department. BEM 515 (October 2018), p. 1. The payment standard established by the Department for a group size of one is \$200. RFT 225 (December 2013), p. 1. Provided the applicant meets all eligibility requirements, initial SDA benefits do not begin until the application becomes 30 days old. BAM 115 (October 2018), p. 27.

SDA Benefits November 16, 2018 through November 30, 2018

Petitioner applied for SDA benefits on [REDACTED], 2018. The earliest SDA benefits could begin, pursuant to BAM 115, was November 16, 2018. That meant that Petitioner was only eligible for SDA benefits for half of the month. The maximum monthly allotment of SDA benefits is \$[REDACTED]. Petitioner received \$[REDACTED] for half of the month of November 2018. Thus, Petitioner received the maximum amount allowable by law.

SDA Denial, Effective December 1, 2018

Starting December 1, 2018, Petitioner was deemed to be ineligible for SDA benefits due to his receipt of RSDI income. Both parties agreed that Petitioner was receiving over \$[REDACTED] per month in RSDI, starting December 1, 2018. As stated above, SDA is only approved for those whose income is less than the payment standard of \$[REDACTED]. As Petitioner had more monthly income than the payment standard starting in December 2018, the Department appropriately determined Petitioner to be ineligible for SDA benefits, effective December 1, 2018.

SER DETERMINATIONS

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.

SER benefits are available to clients who have an emergency which threatens health or safety and can be resolved through issuance of SER. ERM 101 (March 2013), p. 1. Relevant to this matter, the Department provides SER to assist with relocation services, including rent, security deposits, and moving expenses. ERM 303 (October 2018), p. 1. Housing affordability is a condition of eligibility for SER relocation services. ERM 303, p. 4. To be affordable, the SER group must have sufficient income to meet ongoing housing expenses. ERM 207 (October 2015), p. 1. Department policy requires an SER application to be denied when the applicant's total housing obligation exceeds 75% of the group's total net income. ERM 207, p. 1. Total housing obligation means the total amount the SER group must pay for rent, house payment, mobile home lot rent, property taxes and required insurance premiums. ERM 207, p. 1.

In this case, Petitioner applied for SER benefits for relocation services on [REDACTED], 2018 and again on [REDACTED], 2018. At the time of Petitioner's applications, he had no income and was asserting that he had housing needs of between \$[REDACTED] and \$[REDACTED]. Because Petitioner's housing, as declared in his applications, are by law and policy unaffordable, the Department was required to deny Petitioner's applications. Thus, the Department followed law and policy in denying Petitioner's applications for SER benefits for relocation services.

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 acted in accordance with policy when it determined Petitioner's eligibility for FAP, SER, and SDA benefits. Accordingly, the Department's decisions are **AFFIRMED**.

JM/cg



John Markey
Administrative Law Judge
for Robert Gordon, 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

Via Email:

MDHHS-Branch- Hearings
B. Sanborn
B. Cabanaw
M. Holden
D. Sweeney
L. Karadsheh
T. Bair
E. Holzhausen
BSC3- Hearing Decisions
MAHS

Petitioner – Via First-Class Mail:

[REDACTED]
[REDACTED]
[REDACTED]