



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
MI [REDACTED]

Date Mailed: March 4, 2019
MAHS Docket No.: 19-000408
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm

HEARING DECISION

Following Petitioner's request for a hearing, 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 February 27, 2019, from Lansing, Michigan. [REDACTED] [REDACTED] Petitioner, appeared and represented himself. Gregory Folsom, Hearing Facilitator, appeared and represented the Department. Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 40-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) eligibility?

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

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] [REDACTED] 2018, Petitioner requested SER assistance with his electric bill from Consumers Energy. Petitioner's bill was for \$ [REDACTED].
2. On December 4, 2018, the Department issued two Verification Checklists to Petitioner. The Department issued one to obtain information from Petitioner to review his eligibility for FAP benefits, which instructed Petitioner to provide proof

of his rent to the Department by December 14, 2018. The Department issued another one to obtain information from Petitioner to determine his eligibility for SER assistance, which instructed Petitioner to provide proof of his checking account balance by December 11, 2018.

3. Petitioner provided the proof as requested in the SER Verification Checklist, but Petitioner did not respond to the Department's FAP Verification Checklist.
4. On December 6, 2018, the Department issued a State Emergency Relief Decision Notice which notified Petitioner that the Department would pay \$41.54 for his electricity and that the Department would only issue one payment for his electricity for the year (October 1 through September 30).
5. On December 21, 2018, the Department issued a Notice of Case Action which notified Petitioner that his FAP benefit was going to decrease to \$77.00 per month effective February 1, 2019. The Department decreased Petitioner's FAP benefit because (a) Petitioner had an increase of \$[REDACTED] in his income from social security and (b) Petitioner failed to provide proof of his rent expense. The Department budgeted a monthly unearned income of \$[REDACTED] from social security, a standard deduction of \$158.00, a rent expense of \$0, and a heat and utility standard of \$543.00. The Department's budget resulted in a net income of \$[REDACTED]. For a household size of one, the net income made Petitioner eligible for a FAP benefit of \$77.00 per month.
6. On December 26, 2018, Petitioner requested SER assistance with another electric bill from Consumers Energy. Petitioner's bill was for \$[REDACTED]. When Petitioner requested SER assistance, the Department advised Petitioner that it could not grant him additional assistance because it only issues one payment for electricity for the year. The Department explained to Petitioner that verbiage of this rule was contained in the December 6, 2018, Decision which granted his first request for SER assistance.
7. On January 9, 2019, Petitioner filed a hearing request to dispute the Department's decision on his FAP benefits.
8. On January 10, 2019, Petitioner filed a hearing request to dispute the Department's decision on his SER assistance.

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.

Here, the Department decreased Petitioner's FAP benefit amount after the Department did not receive requested verification from Petitioner by the due date. In the Verification Checklist issued to Petitioner, the Department had notified Petitioner that failure to return the verification as instructed could result in the denial, decrease, or cancellation of FAP benefits. When Petitioner failed to return the verification as instructed, the Department chose to use \$0.00 as his rent expense, which resulted in a decrease in his FAP benefits.

The Department acted in accordance with its policies when it used \$0.00 as Petitioner's rent expense and decreased his FAP benefits. Pursuant to the Department's policies, the Department must tell a client what verification is required, how to obtain it, and when it is due. BAM 130 (April 1, 2017), p. 3. The Department must give the client 10 days to provide it. BAM 130, p. 7. It is the client's responsibility to obtain verifications as instructed. If a client does not make a reasonable effort to provide verifications as instructed, then the Department must send a Negative Action Notice. BAM 130, p. 7. Since there was no evidence that Respondent made a reasonable effort to provide the rent verification as instructed, the Department acted in accordance with its policies when it notified Petitioner that his FAP benefit would be decreased.

The Department determines a client's monthly FAP benefit amount by determining the client's group size and countable household income and then looking that information up in its applicable Food Issuance Table. BEM 212 (January 1, 2017), BEM 213 (January 1, 2019), BEM 550 (January 1, 2017), BEM 554 (August 1, 2017), BEM 556 (April 1, 2018), and RFT 260 (October 1, 2018). To determine a client's countable income, the Department considers the expenses and deductions that a client is entitled to such as the standard deduction and excess shelter expense. Here, Petitioner was entitled to a standard deduction of \$158.00 for a household size of one and Petitioner was entitled to an excess shelter expense of \$235.00 (based on a rent expense of \$0.00 and the heat/utility standard of \$543.00). Petitioner's income from social security of \$ [REDACTED] less the expenses and that he was entitled to resulted in a countable income of \$ [REDACTED].

Once the Department determines a client's countable income, the Department looks it up in its Food Issuance Table to determine the maximum FAP benefit the client is entitled to receive. RFT 260 (October 1, 2018). A client with a household size of one and a countable income of \$ [REDACTED] in February 2019 was eligible for a maximum FAP benefit of \$77.00 per month. The Department properly determined Petitioner's FAP benefit amount when it determined he was eligible for a FAP benefit of \$77.00 per month effective February 1, 2019.

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.

Here, the Department denied Petitioner's second request for SER assistance because he requested SER assistance with an electricity bill and the Department had already issued a payment to Petitioner for an electricity bill within the year. The Department granted Petitioner's request for SER assistance with his November 2018 electricity bill. The Department issued a notice to Petitioner that stated a payment would be issued and that the Department would only issue one payment for his electricity for the year (October 1 through September 30). Petitioner then made a request for SER assistance with his December 2018 electricity bill, and the Department denied it.

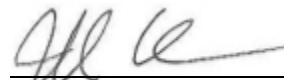
The Department acted in accordance with its policies when it denied Petitioner's request for SER assistance with his December 2018 electricity bill. Pursuant to the Department's policies, a household may receive one SER payment for non-heat electricity each fiscal year. ERM 301 (February 1, 2019), p. 1. Since the Department had already issued an SER payment for non-heat electricity in the same fiscal year that Petitioner made his second request, the Department properly denied the second request.

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 (a) decreased Petitioner's FAP benefit effective February 1, 2019, and (b) denied Petitioner's request for SER assistance with his December 2018 electricity bill.

IT IS ORDERED the Department's decisions are AFFIRMED.

JK/nr



Jeffrey Kemm
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

DHHS

Mark Epps
4809 Clio Road
Flint, MI
48504

Genesee Clio County DHHS- via
electronic mail

BSC2- 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]
[REDACTED]
[REDACTED], MI
[REDACTED]