



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS  
DIRECTOR

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

Date Mailed: May 13, 2019  
MOAHR Docket No.: 19-003756  
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 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; 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on May 8, 2019, from Lansing, Michigan. [REDACTED] [REDACTED] Petitioner, appeared and represented herself. Richkelle Curney, Hearing Facilitator, appeared for the Department of Health and Human Services (Department). Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 75-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 deny Petitioner's State Emergency Relief (SER) request?

Did the Department properly determine Petitioner's Medical Assistance (MA) 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. Petitioner's address is [REDACTED], [REDACTED] MI [REDACTED]

2. On [REDACTED] [REDACTED] 2019, Petitioner applied for SER to get assistance with her utilities. Petitioner listed her address as "[REDACTED] [REDACTED] MI [REDACTED]" in her application. Petitioner listed her authorized representative as [REDACTED] [REDACTED] and listed her address as "[REDACTED] [REDACTED] [REDACTED] [REDACTED]". Petitioner signed her application electronically.
3. On February 14, 2019, the Department issued a state emergency relief decision notice to Petitioner. The notice was mailed to Petitioner at [REDACTED] [REDACTED] MI [REDACTED]. The notice advised Petitioner that she was approved for an SER payment of \$1,606.97 upon proof of payment of \$[REDACTED] by Petitioner. The notice advised that the proof of payment had to be received by the Department by March 13, 2019, or else the SER would be denied.
4. Petitioner did not physically receive the notice, but she was aware that her SER had been approved because she could see it online. Petitioner was aware she had to make a payment of \$[REDACTED]. Petitioner solicited and obtained assistance from another agency with her payment. However, Petitioner did not provide proof of the payment to the Department because she was unaware she was required to provide it.
5. On March 5, 2019, the Department issued a notice of case action to Petitioner to notify her that she was eligible for a FAP benefit of \$431.00 per month for a household size of five effective February 12, 2019 (the Department notified Petitioner that her February payment would be prorated to \$302.00 since it was not effective until February 12, 2019). The Department's notice advised Petitioner that it used a budget of \$[REDACTED] in earned income, \$[REDACTED] in unearned income, and \$264.00 in housing costs to determine her FAP benefit.
6. On March 14, 2019, the Department denied Petitioner's request for SER for failure to provide proof of payment of \$[REDACTED].
7. On March 15, 2019, the Department issued a health care coverage determination notice which notified Petitioner that [REDACTED] [REDACTED] and [REDACTED] were eligible for full-coverage MA effective March 1, 2019.
8. On April 8, 2019, Petitioner filed a hearing request to dispute the Department's decisions regarding FAP, SER, and MA.
9. On April 12, 2019, the Department issued a health care coverage determination notice which notified Petitioner that she was eligible for full-coverage MA effective March 1, 2019, and [REDACTED] was ineligible for MA effective May 1, 2019, because she did not meet the Department's eligibility requirements. The Department advised that it used an annual income of \$[REDACTED] to determine [REDACTED] eligibility.

## **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).

### **FOOD ASSISTANCE**

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 Department did not present sufficient evidence to establish that it determined Petitioner's FAP benefit in accordance with its policies and the applicable law. Specifically, the Department did not provide any evidence to establish that it properly budgeted Petitioner's income and expense in accordance with policy. Petitioner disputed the income and expenses used by the Department, and the Department was unable to support the numbers it budgeted. Therefore, I must reverse the Department's decision and order the Department to redo its budget.

### **STATE EMERGENCY RELIEF**

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.

The Department acted in accordance with its policies when it denied Petitioner's SER. The Department may not issue a SER payment until it receives proof of copayment from the applicant. ERM 103 (March 1, 2019), p. 4. Proof must be received within 30 days. ERM 103, p. 4. Here, the Department approved Petitioner for SER and notified her of the amount it would pay as well as the amount she was responsible for paying. Petitioner was required to provide proof of payment to the Department within 30 days, and Petitioner failed to do so. Therefore, the Department denied Petitioner's SER.

Petitioner asserted that she was unaware she had to provide proof of payment to the Department, so the Department's denial should be reversed. In support of her argument, Petitioner stated that she did not receive the Department's written state emergency relief decision notice because it was mailed to the incorrect zip code. I am not persuaded by Petitioner's argument. The Department mailed the notice to Petitioner at the address she provided in her application, which she signed before she submitted.

Further, Petitioner knew that she was approved for SER and she knew how much she was required to pay because she had access to her account info online. Petitioner could have requested a copy of the SER notice since she had not received it and was aware it had been issued.

### **MEDICAL ASSISTANCE**

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

Petitioner filed her hearing request in part to dispute the Department's decision regarding her MA because the Department did not find Petitioner eligible for MA. However, after Petitioner filed her hearing request, the Department found Petitioner eligible for full-coverage MA effective March 1, 2019. Thus, the issue Petitioner filed her hearing request to dispute has been resolved.

Only one of Petitioner's group members were found ineligible for MA. [REDACTED] was found ineligible for MA on April 12, 2019. Since this decision was issued after Petitioner filed her hearing request, I am not addressing whether the Department acted in accordance with its policies and the applicable law when it found [REDACTED] ineligible for MA. If Petitioner wants to dispute the Department's decision to find [REDACTED] ineligible for MA, Petitioner may file a hearing request within 90 days of the date of the decision.

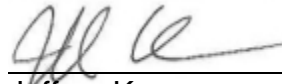
### **DECISION AND ORDER**

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 (a) the Department did not act in accordance with its policies and the applicable law when it issued its March 5, 2019, FAP decision which determined Petitioner's FAP benefits; and (b) the Department did act in accordance with its policies and the applicable law when it denied Petitioner's request for SER on March 14, 2019.

IT IS ORDERED that the Department's March 5, 2019, FAP decision is REVERSED. The Department shall begin to implement this decision within 10 days.

IT IS FURTHER ORDERED that the Department's March 14, 2019 SER decision is AFFIRMED.

JK/nr



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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 Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR 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. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Office of Administrative Hearings and Rules  
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

D. Smith- via electronic mail

EQAD- via electronic mail

T. Bair- via electronic mail

E. Holzhausen- via electronic mail

**Petitioner**

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