



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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Date Mailed: May 31, 2019
MOAHR Docket No.: 19-004333
Agency No.: ██████████
Petitioner: ██████████

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, telephone hearing was held on May 23, 2019, from Lansing, Michigan. Petitioner represented herself. The Department was represented by Haysen Hosny.

ISSUE

Did the Department of Health and Human Services (Department) properly determine Petitioner's eligibility for Medical Assistance (MA), Food Assistance Program (FAP), and 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 February 21, 2019, the Department sent Petitioner a New Hire Client Notice (DHS-4635) with a March 4, 2019, due date. Exhibit A, pp 3-4.
2. On April 17, 2019, the Department notified Petitioner that she was not eligible for Food Assistance Program (FAP) benefits effective May 1, 2019. Exhibit A, pp 6-9.
3. On April 17, 2019, the Department notified Petitioner that she was not eligible for Medical Assistance (MA) effective April 1, 2019. Exhibit A, pp 8-16.
4. On April 17, 2019, the Department notified Petitioner that she was not eligible for State Emergency Relief (SER) assistance. Exhibit A, pp 17-18.
5. On April 25, 2019, the Department sent Petitioner a SER Verification Checklist (DHS-3503-SER) with a May 2, 2019, due date. Exhibit A, pp 19-20.

6. On April 25, 2019, the Department notified Petitioner that she was eligible for Food Assistance Program (FAP) benefits effective May 1, 2019. Exhibit A, pp 21-23.
7. On April 22, 2019, the Department received Petitioner's request for a hearing. Exhibit A, p 1.

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 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.

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.

On ■■■■■ 2019, the Department notified Petitioner that she was not eligible for benefits. The Department's representative testified that benefits have been reinstated since then, but that Petitioner had reported to the Department that there was no emergency making her eligible for SER benefits.

The Department provided an Eligibility Summary but did not provide a notice of case action showing that MA benefits have been restored.

The Department provided a copy of a notice of case action showing that FAP benefits have been restored, but failed to offer sufficient evidence to establish that the monthly allotment of FAP benefits was properly determined.

The Department's records indicate that Petitioner reported that there was no emergency, but Petitioner disputes that she reported this to the Department. This Administrative Law Judge finds that the Department failed to establish that Petitioner's SER application was properly processed.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it properly determined Petitioner's eligibility for Medical Assistance (MA), Food Assistance Program (FAP), and State Emergency Relief (SER) benefits.

DECISION AND ORDER

Accordingly, the Department's decision is REVERSED.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

Initiate a determination of the Petitioner's eligibility for Medical Assistance (MA), Food Assistance Program (FAP), and State Emergency Relief (SER) benefits as of April 1, 2019.

KS/dh



Kevin Scully
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 Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

DHHS

Dawn Tromontine
41227 Mound Rd.
Sterling Heights, MI 48314

Macomb County, DHHS

BSC4 via electronic mail

EQAD via electronic mail

D. Smith via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

T. Bair via electronic mail

E. Holzhausen via electronic mail

Petitioner

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