



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: July 9, 2019
MOAHR Docket No.: 19-006021
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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, a telephone hearing was held on July 3, 2019, from Lansing, Michigan. Petitioner was represented by himself and his daughter, [REDACTED], testified on his behalf. The Department of Health and Human Services was represented by Jeffrey Robinson and Kenya Spratt.

ISSUE

Did the Department of Health and Human Services (Department) properly determine Petitioner's eligibility for 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. Department records indicate that during an eligibility interview on [REDACTED] [REDACTED] 2019, Petitioner reported that he and his daughter stay together, and that they purchase and prepare food together. Department's Exhibit 3.
2. On [REDACTED] [REDACTED] 2019, the Department received Petitioner's application for State Emergency Relief (SER) assistance. Petitioner's Exhibit M.
3. On May 17, 2019, Petitioner requested a hearing protesting the denial of Food Assistance Program (FAP) and State Emergency Relief (SER) benefits. Petitioner's Amended Hearing Request.

4. On May 31, 2019, Petitioner withdrew his May 17, 2019, hearing request. Petitioner's Amended Hearing Request.
5. On [REDACTED] [REDACTED] 2019, the Department received Petitioner's application for State Emergency Relief (SER) assistance. Petitioner's Exhibit O.
6. Petitioner receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$ [REDACTED] Department's Exhibit 17.
7. Petitioner's daughter receives monthly earned income from employment in the gross monthly amount of \$ [REDACTED] Department's Exhibit 16.
8. On May 31, 2019, the Department notified Petitioner that he was eligible for Food Assistance Program (FAP) benefits as a group of two as of May 1, 2019, with a \$15 monthly allotment of Food Assistance Program (FAP) benefits. Department's Exhibits 7-10.
9. On May 31, 2019, the Department notified Petitioner that he is not eligible for State Emergency Relief (SER) benefits based on household income. Department's Exhibits 12-15.
10. Department records indicate that on June 3, 2019, Petitioner's daughter reported to the Department that Petitioner would not allow her to stay in the home. Department's Exhibit 6.
11. On June 3, 2019, the Department received Petitioner's request for a hearing. Exhibit A 2.
12. On June 11, 2019, the Department notified Petitioner that he is eligible for Food Assistance Program (FAP) benefits as a group of one. Petitioner's Exhibit K.

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.

There are no income copayments for SER energy services. With respect to income, clients are either eligible or they are not. For a group to be eligible for energy services, the combined monthly net income that is received or expected to be received by all group members in the 30-day countable income period, cannot exceed the standard for SER energy/LIHEAP services for the number of group members. If the income exceeds the limit, the request must be denied. Department of Health and Human Services Emergency Relief Manual (ERM) 208 (March 1, 2019), p 1.

The monthly income limit for assistance with energy services is \$2,058 for a household of two. ERM 208, p 6.

On [REDACTED] [REDACTED] 2019, Petitioner applied for SER benefits requesting assistance with energy related services. Petitioner applied for these benefits as a household of two claiming that they purchase and prepare food together. The Department determined the eligibility for the household to received energy related SER benefits, and determined that their combined income exceeds the limits in ERM 208. Therefore, the Department denied Petitioner's SER application.

FAP group composition is established by determining who lives together, the relationship of the people who live together, whether the people living together purchase and prepare food together or separately, and whether the persons resides in an eligible living situation. Department of Human Services Bridges Eligibility Manual (BEM) 212 (January 1, 2017), p 1.

On May 31, 2019, the Department notified Petitioner that he is eligible for FAP benefits as a group of two. Since Petitioner's daughter is over age 22, she is not a mandatory member of Petitioner's, but it was appropriate under BEM 212 to determine their eligibility for FAP as a group of two because it was reported to the Department that they purchase and prepare food together.


The hearing record supports a finding that some time after May 31, 2019, it was reported to the Department that Petitioner's daughter would no longer be in the home. This change of circumstances was applied towards Petitioner's eligibility for FAP benefits, but the hearing record supports a finding that the Department applied the best information available towards Petitioner's eligibility for SER benefits at that time. Petitioner's eligibility in the future may change as his circumstances change.

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 Department policy when it determined Petitioner's eligibility for Food Assistance Program (FAP) and State Emergency Relief (SER) benefits.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.

KS/hb



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 Office of Administrative Hearings and Rules
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

DHHS

Linda Gooden
25620 W. 8 Mile Rd
Southfield, MI 48033

Oakland County (District 3), DHHS

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

Authorized Hearing Rep.

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