



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: February 6, 2020
MOAHR Docket No.: 19-013198
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 hearing was held in person on February 6, 2020. Petitioner, [REDACTED], appeared and represented herself. Respondent, Department of Health and Human Services (Department), had Lianne Scupholm, Hearing Facilitator, and Armando Diaz, Eligibility Specialist, appear as its representatives. Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 39-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

ISSUES

Did the Department properly increase Petitioner's Food Assistance Program (FAP) benefits effective December 1, 2019, after Petitioner reported a loss of employment on October 24, 2019?

Did the Department properly determine that Petitioner had a copayment amount of \$709.00 that she had to satisfy before the Department would provide State Emergency Relief (SER) assistance for her heating bill and her structure repairs?

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 is a FAP recipient. Petitioner receives her FAP issuance on the third day of each month.
2. Petitioner has a household size of one.

3. Petitioner has monthly income of \$1,154.00 from social security.
4. On October 24, 2019, Petitioner contacted the Department and reported a loss of employment.
5. On October 31, 2019, the Department mailed a verification checklist to Petitioner to obtain information from her about the loss of employment. The Department instructed Petitioner to provide requested information to the Department by November 12, 2019.
6. Petitioner called the Department but did not provide any documentation as requested in the verification checklist. After Petitioner called, Petitioner thought the Department had all the information it needed.
7. On November 13, 2019, the Department processed Petitioner's reported change and determined that Petitioner was eligible for an increase in her FAP benefits effective December 1, 2019.
8. On November 18, 2019, the Department mailed a notice of case action to Petitioner to notify her that she was eligible for an increase in her FAP benefit amount to \$91.00 per month effective December 1, 2019.
9. On November 25, 2019, Petitioner applied for SER assistance with heat, electric, water/sewage, mortgage, and home structure repairs.
10. The Department interviewed Petitioner and requested documentation from Petitioner. Petitioner provided documentation to the Department which established that (a) Petitioner was in default on her mortgage, but she was not subject to foreclosure proceedings; (b) Petitioner receives assistance with her electricity bills; (c) Petitioner's water/sewage account was not in arrears; (d) Petitioner's home required structure repairs costing \$825.00; and (e) Petitioner owed \$9.73 for her home heating.
11. The Department determined that Petitioner was eligible for SER for her heating bill and structure repair subject to a \$709.00 copayment.
12. On December 4, 2019, the Department mailed a state emergency relief decision notice to Petitioner to notify her that she was eligible for SER assistance with her heating bill and structure repair provided that she made a \$709.00 copayment by December 24, 2019.
13. On December 6, 2019, Petitioner requested a hearing to dispute the Department's decision to make her FAP increase effective December 1, 2019, rather than November 1, 2019, and to dispute the Department's decision to require her to make a \$709.00 copayment to receive 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).

FOOD ASSISTANCE

The Food Assistance Program (FAP) 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 administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

When a change is reported and the change increases a client's FAP benefit, the Department must make the increase effective no later than the first allotment issued 10 days after the date the change was reported, provided that necessary verification is provided as required. BAM 220 (April 1, 2019), p. 7. In this case, Petitioner reported a loss of employment to the Department on October 24, 2019, and Petitioner's allotment was scheduled to be issued on November 3, 2019. Petitioner reported her change in time to get an increase in her FAP benefits for November, but the Department did not make her increase effective until December because the Department did not receive the necessary verification it requested from Petitioner.

Petitioner did not present sufficient evidence to establish that the Department did not properly determine her FAP increase effective date. Specifically, the Department requested verification from Petitioner, and Petitioner did not present any evidence to establish that she provided the requested verification by the due date. Since Petitioner did not present sufficient evidence to establish that the Department did not properly determine her FAP increase effective date, I must affirm the Department's decision.

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 pursuant to MCL 400.10 and Mich Admin Code, R 400.7001-.7049.

When an individual applies for SER assistance, the Department must determine the individual's eligibility by completing a budget. ERM 103 (March 1, 2019), p. 3. The budgeting process determines if the individual has income available to resolve the emergency, and it determines what amount the individual must contribute to resolve the emergency. ERM 208 (December 1, 2019), p. 1. The amount the individual must contribute to resolve the emergency is the individual's household income in excess of the SER income need standards set by policy. *Id.* The amount the Department will provide for SER assistance is the amount required to resolve the emergency in excess of what the individual must contribute. *Id.*


In this case, Petitioner had monthly income of \$1,154.00 from social security, and the applicable SER income need standard was \$445.00. Thus, Petitioner had income of \$709.00 in excess of the SER income need standard. Since Petitioner had income of \$709.00 in excess of the SER income need standard, the Department properly determined that Petitioner was required to make a \$709.00 copayment in order to receive SER assistance.

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 properly increase Petitioner's Food Assistance Program (FAP) benefits effective December 1, 2019, and (b) the Department did properly determine that Petitioner had a copayment amount of \$709.00 that she had to satisfy before the Department would provide State Emergency Relief (SER) assistance.

IT IS ORDERED the Department's decision is AFFIRMED.

JK/ml



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

Calhoun County DHHS – Via Electronic Mail

BSC3 – 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], MI [REDACTED]