



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]

Date Mailed: July 11, 2019
MOAHR Docket No.: 19-006194
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on July 8, 2019, from Detroit, Michigan. Petitioner was present and represented himself. The Department of Health and Human Services (Department) was represented by Ivan Diaz-Castillo, Hearing Coordinator.

ISSUE

Did the Department properly determine Petitioner's Food Assistance Program (FAP) benefit amount?

Did the Department properly deny Petitioner's State Emergency Relief (SER) application?

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], 2019, Petitioner submitted an application for FAP benefits and SER benefits for assistance with home repairs and his homeowner's insurance (Exhibit A).
2. On May 21, 2019, the Department sent Petitioner an Appointment Notice informing him that he had a telephone interview scheduled on May 24, 2019 at 10:00 AM (Exhibit B).

3. On May 21, 2019, the Department sent Petitioner a SER Verification Checklist (VCL) requesting proof of the repairs requested and his property taxes (Exhibit C).
4. On May 24, 2019, the Department sent Petitioner a Notice of Missed Interview informing him that he missed his interview scheduled May 24, 2019 (Exhibit D).
5. On May 28, 2019, the Department sent Petitioner a State Emergency Relief Decision Notice informing him that his SER application was denied (Exhibit E).
6. Petitioner had unearned income in the form of Retirement, Survivors and Disability Insurance (RSDI) benefits in the monthly amount of \$451 (Exhibit H).
7. Petitioner had unearned income in the form of Supplemental Security Income (SSI) benefit in the monthly amount of \$340 (Exhibit H).
8. On May 28, 2019, the Department sent Petitioner a Notice of Case Action (NOCA) informing him that he was approved for FAP benefits in the monthly amount of \$150 (Exhibit G).

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).

FAP

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.

In this case, Petitioner submitted an application for FAP benefits on [REDACTED], 2019. The Department determined Petitioner was eligible for FAP benefits in the monthly amount of \$150. The Department presented a FAP budget to establish the calculation of Petitioner's FAP benefit amount (Exhibit I).

All countable earned and unearned income available to the client must be considered in determining a client's eligibility for program benefits and group composition policies specify whose income is countable. BEM 500 (July 2017), pp. 1-5. The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. BEM 500, p. 1.

According to the budget provided, the Department determined Petitioner had unearned income in the total amount of \$634. The Department presented Petitioner's State On-Line Query (SOLQ) report which showed he received \$451 in RSDI benefits per month and \$340 in SSI benefits per month. The Department was unclear as to the discrepancy between the figures listed in the SOLQ and that in the FAP budget.

When reviewing Petitioner's application for benefits, he stated that he received \$310 per month in RSDI benefits and \$310 in SSI benefits. As Petitioner is an SSI recipient, he also likely receives State SSI Payment (SSP) benefits in the standard monthly amount of \$14. Adding those figures together, it results in \$634. Although the Department used the incorrect income, the income figure used is less than what Petitioner actually receives. As the miscalculation was in Petitioner's favor, the error is harmless.

The deductions to income on the net income budget were also reviewed. There was evidence presented that the Petitioner's group includes a senior/disabled/veteran (SDV). BEM 550. Thus, the group is eligible for the following deductions to income:

- Dependent care expense.
- Excess shelter.
- Court ordered child support and arrearages paid to non-household members.
- Standard deduction based on group size.
- Medical deduction.

BEM 554; BEM 556 (August 2017), p. 1; BEM 556 (April 2018), p. 3.

Petitioner's FAP benefit group size of one justifies a standard deduction of \$158. RFT 255 (October 2018), p. 1. There was no evidence presented that Petitioner had any out-of-pocket dependent care, child support expenses or out-of-pocket medical expenses. Therefore, the budget properly excluded any deduction for dependent care, child support or medical expenses.

In calculating the excess shelter deduction of \$337, the Department stated that it considered Petitioner's verified housing expense of \$32.41 and that he was responsible for a monthly heating expense, entitling him to the heat/utility standard of \$543. BEM 554, pp. 14-15. The Department testified when calculating Petitioner's excess shelter amount, they added the total shelter amount and subtracted 50% of the adjusted gross income. Petitioner's excess shelter deduction was properly calculated at \$337 per month.

The FAP benefit group's net income is determined by taking the group's adjusted gross income and subtracting the allowable excess shelter expense. After subtracting the allowable deductions, the Department properly determined Petitioner's adjusted gross income to be \$476. Petitioner's adjusted gross income subtracted by the \$337 excess shelter deduction results in a net income of \$139. A chart listed in RFT 260 is used to determine the proper FAP benefit issuance based on the net income and group size.

Based on Petitioner's net income and group size, Petitioner's FAP benefit issuance is \$150. Therefore, the Department properly calculated Petitioner's FAP benefit amount.

SER

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.

In this case, Petitioner submitted on an application for SER benefits on May 21, 2019 requesting assistance with homeowner's insurance and home repairs. On May 21, 2019, the Department sent Petitioner an Appointment Notice informing him that he had an interview scheduled on May 24, 2019, related to the application. On May 21, 2019, the Department sent Petitioner an SER VCL requesting various verifications. Proofs were due by May 28, 2019.

Applicants may file an SER application in any county in Michigan. ERM 103 (October 2017), p. 1. At application, Clients must be informed of all verifications that are required and where to return verifications. ERM 103, p. 7. The due date is eight calendar days beginning with the date of application. ERM 103, p. 7. If the application is not processed on the application date, the deadline to return verifications is eight calendar days from the date verification is requested. ERM 103, p. 7. The Department will use the DHS-3503, SER Verification Checklist, to request verification and to notify the client of the due date for returning the verifications. ERM 103, p. 7. The Department sends a negative action notice when: the client indicates a refusal to provide a verification OR the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130 (April 2017), p. 7.

Additionally, when completing an application for SER benefits, the in-person interview requirement is waived but a phone interview is required for active applicants. ERM 103 (October 2017), p. 5. In-person interviews are required for persons who are applying for SER services and are not active for another Department program. ERM 103, p. 5. The SER standard of promptness is 10 calendar days, beginning with the date the SER application is received. ERM 103, p. 5. The Department will pend an application if the SER group is cooperating within their ability to provide verifications. ERM 103, p. 5. The Department will deny the SER application if the group does not cooperate. ERM 103, p. 5.

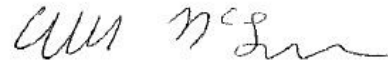
The Department testified that Petitioner did not participate in the scheduled interview, nor did he submit any of the requested verifications. Petitioner stated that he notified the Department that he would not be at his interview, as he had frequent court appearances for a criminal case. Petitioner stated he informed the Department that he would reschedule his interview. Petitioner acknowledged that he never attempted to reschedule the interview. Petitioner also stated that he received the VCL after the due date.

Petitioner admitted that he did not participate in his interview, nor did he attempt to reschedule the interview. Therefore, the Department acted in accordance with policy when it denied Petitioner's SER application.

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 acted in accordance with Department policy when it determined Petitioner's FAP benefit amount and when it denied his SER application. Accordingly, the Department's decisions are **AFFIRMED**.

EM/cg



Ellen McLemore

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

Via Email:

MDHHS-Saginaw-Hearings
M. Holden
D. Sweeney
T. Bair
E. Holzhausen
BSC2- Hearing Decisions
MOAHR

Petitioner – Via First-Class Mail:

████████████████████
████████████████████
████████████████████