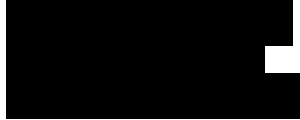




GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR



Date Mailed: January 30, 2020
MOAHR Docket No.: 19-012807
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 January 15, 2020, from Detroit, Michigan. Petitioner appeared and was unrepresented. [REDACTED], Petitioner's daughter, testified on behalf of Petitioner. The Michigan Department of Health and Human Services (MDHHS) was represented by Antoine Peoples, lead specialist, and Mary Strand, supervisor.

ISSUES

The first issue is whether MDHHS properly denied Petitioner's application for State Emergency Relief (SER).

The second issue is whether MDHHS properly terminated Petitioner's Family Independence Program (FIP) 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. As of August 2019, Petitioner was an ongoing recipient of FIP benefits.
2. As of August 2019, Petitioner was the owner of a checking and savings account.
3. On August 29, 2019, MDHHS mailed Petitioner a Verification Checklist requesting proof of a checking and savings account. The due date was September 9, 2019.

4. On September 13, 2019, MDHHS initiated termination of Petitioner's FIP eligibility beginning October 1, 2019 due to Petitioner's failure to return verification of a savings and checking account.
5. As of September 25, 2019, Petitioner had not submitted to MDHHS proof of her savings and checking accounts.
6. On [REDACTED], 2019, Petitioner applied for SER seeking assistance with relocation. Petitioner advised MDHHS that her purpose for relocation was a threat of domestic violence. Petitioner also told MDHHS that she did not file a police report regarding the threat.
7. On October 29, 2019, MDHHS denied Petitioner's SER application due to Petitioner failing to file a police report regarding a threat of domestic violence.
8. On November 27, 2019, Petitioner requested a hearing to dispute the termination of FIP and denial of SER.

CONCLUSIONS OF LAW

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. SER policies are contained in the Emergency Relief Manual (ERM).

Petitioner requested a hearing to dispute a denial of SER requesting assistance with relocation. Exhibit A, pp. 28-29. Petitioner's reported need for relocation was to escape a threat of domestic violence. A State Emergency Relief Decision Notice dated October 29, 2019, stated that MDHHS denied Petitioner's application due to Petitioner not filing a police report concerning a reported threat of domestic violence. Exhibit A, pp. 23-25. The stated reason for denial functionally equates to Petitioner failing to verify an emergency for SER.

SER assists individuals and families to resolve or prevent homelessness by providing money for rent, security deposits, and moving expenses. ERM 303 (October 2018) p. 1. MDHHS is to authorize relocation services only if one of the following circumstances exist and all other SER criteria are met:

- The SER group is homeless.
- The SER group is at risk of homelessness
- The SER group meets the eligibility requirements for the Family Re-Housing Program or Rural Homeless Permanent Supportive Housing Initiative. *Id.*, p. 1.

Generally, MDHHS does not consider a group living with friends and/or others to be homeless. *Id.*, p. 2. Exceptions to the generality are as follows:

- Following a fire or natural disaster from the past 60 days

- To escape a domestic violence situation
- The group is eligible for a homeless assistance program from above. *Id.*, pp. 2-3.

Respondent's specialist documented on the SER denial notice that Petitioner stated that she did not file a police report regarding a threat of domestic violence. Petitioner's specialist documented the same in comments associated with Petitioner's case. Exhibit A, p. 10. Petitioner's testimony did not claim that she filed a police report. The evidence established that Petitioner did not file a police report regarding domestic violence.

Policy lists the acceptable verifications for SER emergencies. For SER-relocation based on domestic violence, the only requirement is a group's statement that they are living with others to escape domestic violence. A police report is a notably absent verification requirement. Given its policy, MDHHS had no basis to require Petitioner to file a police report to verify a threat of domestic violence. Thus, MDHHS improperly denied Petitioner's SER.

A supervisor testified that Petitioner has since reapplied for SER and that MDHHS recognized Petitioner's emergency in the subsequent application. The supervisor's testimony was intended as an argument that there was no need to order reinstatement of the improperly denied SER application.

Generally, the administrative remedy for an improperly denied application is a reregistration and reprocessing of that application. Exceptional circumstances may justify otherwise, but the present case is devoid of such circumstances. Petitioner's later SER application may not have been denied for failing to verify an emergency, however, the circumstances justifying denial are not necessarily applicable to Petitioner's application dated [REDACTED], 2019. Thus, there is a possibility that Petitioner's SER application dated [REDACTED], 2019, will not be denied upon reprocessing.

Given the circumstances, Petitioner is entitled to a remedy of a reprocessing of her SER application dated [REDACTED], 2019. Petitioner should also be aware that if her application is again denied, she is entitled to again request a hearing to dispute denial.

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Department of Human Services) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101-.3131. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner also requested a hearing to dispute a termination of FIP benefits. A Notice of Case Action dated September 13, 2019, stated that Petitioner's FIP eligibility would end October 2019 due to a failure to verify a bank account.

Assets must be considered in determining eligibility for FIP. BEM 400 (April 2019), p. 1. MDHHS is to verify the value of countable assets at application, redetermination, and when a change is reported. *Id.*, p. 62.

For all programs, MDHHS is to use the DHS-3503, Verification Checklist to request verification. BAM 130 (April 2017), p. 3. MDHHS must tell the client what verification is required, how to obtain it, and the due date. *Id.*, p. 3. For FIP benefits, MDHHS must allow the client 10 calendar days (or other time limit specified in policy) to provide the verification that is requested. *Id.*, p. 7. For FIP benefits, MDHHS is to send a negative action notice when the client indicates refusal to provide a verification, or the time period given has elapsed and the client has not made a reasonable effort to provide it. *Id.*

MDHHS requested proof of Petitioner's savings and checking account on August 29, 2019, via VCL. Exhibit A, p. 14-16. Petitioner failed to return requested verifications by the due date of September 9, 2019. Petitioner also failed to return requested verifications by the date that written notice of FIP closure was sent (September 13, 2019). Thus, MDHHS properly initiated termination of Petitioner's FIP eligibility. The only dispute concerned whether Petitioner returned verification timely enough to have received FIP benefits for October 2019.

Petitioner testified that she returned bank verifications to MDHHS on [REDACTED], 2019. MDHHS testified that Petitioner's bank verifications were returned on [REDACTED], 2019. The disagreement suggested that the 1-day difference between the return date was pivotal in determining whether MDHHS should have issued FIP benefits to Petitioner in October 2019. For purposes of this decision, it will be accepted that Petitioner returned requested asset verifications on [REDACTED], 2019.

A negative action is a MDHHS action to deny an application or to reduce, suspend or terminate a benefit. BAM 220 (April 2019) p. 1. A closure of FIP benefits is a negative action requiring timely notice. *Id.*, p. 4. A timely notice is mailed at least 11 days before the intended negative action takes effect. *Id.*, pp. 4-5. The action is pended to provide the client a chance to react to the proposed action. *Id.* Negative actions are to be deleted if a client complies with the reason for the negative action before the negative action date. *Id.*, p. 13.

Bridges automatically sets all negative action effective dates based on the rules for each program and the date the action is processed in the system. *Id.*, p. 13. The negative action date on Bridges is the day after the timely hearing request date on the Bridges notice of case action. *Id.*

MDHHS mailed timely notice of FIP closure to Petitioner on September 13, 2019. The negative action date calculated by Bridges and appearing on the notice of closure was September 24, 2019. Exhibit A, p. 20. A negative action date 11 days after mailing of timely notice is consistent with MDHHS policy. Given the evidence, Petitioner's negative action effective date was September 24, 2019.

Petitioner's submission of [REDACTED], 2019, occurred 6 days following the negative action date. Petitioner's submission occurring after the negative action date was too late to halt FIP closure. Thus, MDHHS properly did not stop the closure of Petitioner's FIP eligibility and/or reinstate Petitioner's FIP benefits.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly terminated Petitioner's FIP eligibility beginning October 2019. Concerning Petitioner's dispute of FIP benefits, the actions taken by MDHHS are **AFFIRMED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly denied Petitioner's SER application. It is ordered that MDHHS commence the following actions within 10 days of the date of mailing of this decision:

(1) Reregister Petitioner's SER application dated [REDACTED], 2019, subject to the finding that MDHHS improperly required Petitioner to file a police report before requesting a SER based on domestic violence;

(2) Commence processing of Petitioner's SER application in accordance with policy.

Concerning Petitioner's SER application dispute, the actions taken by MDHHS are **REVERSED**.

CG/cg



Christian Gardocki

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-Oakland-4-Hearings
B. Sanborn
B. Cabanaw
T. Bair
E. Holzhausen
BSC4- Hearing Decisions
MOAHR

Petitioner – Via First-Class Mail:

