



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: March 28, 2018
MAHS Docket No.: 18-002150
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Janice Spodarek

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 3/28/18, from Lansing, Michigan. Petitioner personally appeared and testified. The Department of Health and Human Services (Department) was represented by Valerie Foley.

ISSUE

Did the Department properly deny Petitioner's FAP and ERM requests for 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 [REDACTED] Petitioner applied for FAP and SER with the Department.
2. Petitioner is in the process of a divorce and claims that he has his children more than ½ time. The Department called Petitioner's non-custodial spouse who indicated that Petitioner has the children every other weekend.
3. The Department denied FAP based on for group composition policy.
4. Unrefuted evidence is that Petitioner did not have any verification of a utility shut off, or any verification that his house was in foreclosure or threatened to be sold in order to establish eligibility for SER.
5. The Department denied Petitioner's FAP benefits for his children and denied SER for utility shut-off and property taxes.

6. On 2/20/18 Petitioner filed a hearing request.

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.

Direct Support Services (DSS) is established by the Social Welfare Act, MCL 400.1-.119b. The program is administered by the Department pursuant to MCL 400.10 and 400.57a and Mich Admin Code R 400.3603.

In this case, the Department argues that Petitioner does not meet the eligibility criteria for assistance regarding his FAP, SER and emergency services for utilities. Petitioner does not dispute that the department properly processed his applications based on the evidence in its possession. Rather, Petitioner argues that he should prevail on the grounds that he lost his verification for utility shut off. Petitioner further argues that his house will be sold in the future if he does not pay his property taxes.

Specific policy with regard to verification and group composition is found primarily in BAM 110, 205, 210, 211, 220, 703 and 802. That policy requires the Department to have in a beneficiary's file all necessary verifications to establish eligibility and ongoing eligibility prior to issuing welfare benefits. Failure by the Department to ensure that all necessary verifications are in a case file can subject the Department to significant financial penalties by the federal government.

Here, evidence shows that the Department followed its procedure with regard to issuing necessary verification requests along with due dates that complied with Department policy and procedure. The Department argues that it was required to deny Petitioner's application on the grounds that Petitioner failed to provide necessary verifications as to establish his eligibility.

Petitioner's arguments regarding the mother of his children and her current partner, and/or any fraud regarding her benefits/citizenship are not relevant to the case herein, although Petitioner understands that they may be relevant in other jurisdictional venues. Here, if Petitioner has a court order showing that he has the children more than half time, then the Department indicated that he may be eligible for benefits. Absent proof of the same, there is no eligibility.

Individuals who received public assistance funds have the burden of proof to establish eligibility. Where each side is equally credible, the burden of proof must be weighed against the individual who has that burden.

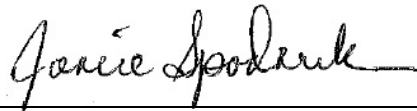
Here, Petitioner has the burden, and, Petitioner had no proof of having delivered the verification. As such, Petitioner cannot prevail.

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's actions were correct and thus, must be upheld.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

JS/nr



Janice Spodarek
Administrative Law Judge
for Nick Lyon, 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 Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS 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. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088; Attention: MAHS 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

Latasha McKinney-Newell
26355 Michigan Ave.
Inkster, MI
48141

Wayne 19 County DHHS- via electronic mail

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]