



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

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

Date Mailed: January 23, 2019  
MAHS Docket No.: 18-013323  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris**

**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 23, 2019, from Detroit, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Lektia Cokley, Family Independence Specialist, and Raychael May, Family Independence Manager/Pathway to Potential.

**ISSUE**

1. Did the Department properly calculate the Petitioner's Food Assistance Program (FAP) benefits?
2. Did the Petitioner file a State Emergency Relief (SER) application for September 2018?

**FINDINGS OF FACT**

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Petitioner requested a hearing on December 7, 2018, regarding a SER application she filed in [REDACTED] 2018 and her FAP benefits.
2. The Department presented the Electronic Case File for Petitioner and there was no SER application filed in [REDACTED] 2018 by Petitioner and no application for SER filed within 90 days of the Petitioner's hearing request.

3. At the time, of the hearing on January 23, 2019, the Petitioner was living in a shelter and was homeless.
4. The Petitioner requested a hearing on December 7, 2018, protesting the Department's actions.

### **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.

In this case, the Petitioner requested a hearing regarding an alleged previous SER application filed in [REDACTED] 2018, on or about [REDACTED], 2018. At the time of the hearing request for SER dated December 7, 2018, the Petitioner was no longer living in the home that she had previously lived in and had been evicted. The Department testified that no application for SER for [REDACTED] 2018 was received from Petitioner based upon a review of the electronic case file which records all of the documents filed by clients with the Department. Given the facts presented it was not established that there was a SER application on file for Petitioner for [REDACTED] 2018. As no application was presented, there is nothing for the undersigned to decide or determine and therefore Petitioner's hearing request regarding SER dated December 7, 2018, must be dismissed.

As regards the Petitioner's hearing request for FAP benefits, the Department did not present a FAP NET EDG budget and did not provide an excess shelter budget to show that the phone allowance was used. After the hearing, the Department faxed the December 2018 FAP NET EDG budget, which cannot be considered as it was not presented during the hearing; and the hearing record was closed at the end of the hearing. The only evidence presented was the Petitioner's Supplemental Security Income (SSI) from her children. Because there was no FAP budget presented at the

hearing which could be reviewed, the Department did not establish that it correctly calculated the FAP benefits for December 2018. In addition, the month in question was December 2018; and the Department failed to establish that the Petitioner was working and did not verify or provide the Work Number relied upon to establish employment with [REDACTED]. The Petitioner, testified that she worked for two weeks only at [REDACTED]. No verification or presentation regarding whether the Petitioner reported the employment or reported that she lost employment was presented, nor did the Department indicate that it sought verification from Petitioner and/or the employer regarding her employment status. The Petitioner testified that she did not work for [REDACTED] mentioned as an employer by the Department; and Petitioner testified that she was only in training and received no income. In addition, no proof of how child support for one of the children was averaged so it could be determined whether income from child support was correctly averaged. It was also unclear from the lack of information presented by the Department whether the FAP was correct for October 2018 and November 2018 as the Hearing request dated [REDACTED] 2018, allows the undersigned to review those issues within 90 days of the date the hearing was requested. Thus, FAP benefits for prior months may be reviewed as well. BAM 600 (October 2018), p. 4.

BAM 600 Hearings requires the following be presented by the Department at the hearing,

Complete a DHS-3050, Hearing Summary, prior to the meaningful prehearing conference. In the event additional space is required to complete the DHS-3050, Hearing Summary, attach a word document to the DHS-3050 and number the word document accordingly. All case identifiers and notations on case status must be complete.

The hearing summary must include all of the following:

- A clear statement of the case action, in chronological order, including all programs involved in the case action.
- Facts which led to the action.
- Policy which supported the action.
- Correct address of the client and the AHR.
- Description of the documents the local office intends to offer as exhibits at the hearing.

Number the document copies consecutively in the lower right corner; begin numbering with the hearing summary. BAM 600 (October 2018), p. 21

**State Emergency Relief**

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 there is no application for SER filed by Petitioner within 90 days of the Petitioner's December 7, 2018, Hearing Request and no record of a SER application filed on September 12, 2018, in the electronic case file for Petitioner.

**Food Assistance**

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it calculated the Petitioner's FAP benefits for December 2018 and for the months of October 2018 and November 2018.

**DECISION AND ORDER**

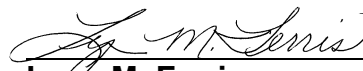
Accordingly, the Petitioner's December 7, 2018 Hearing Request regarding State Emergency Relief is hereby **DISMISSED**.

Accordingly, the Department's decision is **REVERSED with respect to the Food Assistance benefits**.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING WITH REGARD TO FOOD ASSISTANCE, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. The Department shall recalculate the Petitioner's FAP benefits for the months of October 2018, November 2018 and December 2018 and determine Petitioner's eligibility and shall seek verification of employment or loss of employment if necessary.
2. The Department shall provide FAP supplements for the month of in question only if the Petitioner is otherwise entitled to receive them, and in accordance with Department policy.

LMF/jaf

**Lynn M. Ferris**

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 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) 763-0155; 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**

Denise Ezell  
MDHHS-Wayne-23-Hearings

**Petitioner**

[REDACTED]  
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