



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

ORLENE HAWKS
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: April 19, 2019
MAHS Docket No.: 19-002464
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, an in-person hearing was held on April 10, 2019, from Lansing, Michigan. Petitioner was represented by his authorized hearing representative, [REDACTED] and his parents, [REDACTED] and [REDACTED], testified on his behalf. The Department was represented by April Nemec.

ISSUE

Did the Department of Health and Human Services (Department) properly denied Petitioner's Food Assistance Program (FAP) and 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] 2018, the Department received Petitioner's State Emergency Relief (SER) application. The application lists his mother, [REDACTED], as his authorized representative. Exhibit A, pp 14-19.
2. On [REDACTED] 2018, the Department received Petitioner's Food Assistance Program (FAP) application. The application lists his mother, [REDACTED], as his authorized representative. Exhibit A, pp 20-25.
3. On December 7, 2018, the Department sent Petitioner an Appointment Notice (DHS-170). Exhibit A, p 26.
4. On December 14, 2018, the Department sent Petitioner a Verification Checklist (DHS-3503) with a December 26, 2018, due date. Exhibit A, pp 27-28.

5. ON December 14, 2018, the Department sent Petitioner a SER Verification Checklist (DHS-3503-SER). Exhibit A, pp 29-30.
6. On December 21, 2018, the Department notified Petitioner that his State Emergency Relief (SER) application had been denied. Exhibit A, pp 7-8.
7. On [REDACTED], 2019, the Department received Petitioner's Food Assistance Program (FAP) application. The application lists his mother, [REDACTED] as his authorized representative. Exhibit A, pp 38-43.
8. On [REDACTED], 2019, the Department received Petitioner's State Emergency Relief (SER) application. The application lists his mother, [REDACTED], as his authorized representative. Exhibit A, pp 44-48.
9. On January 11, 2019, the Department sent Petitioner an Appointment Notice (DHS-170). Exhibit A, p 49.
10. On January 17, 2019, the Department sent Petitioner a Verification Checklist (DHS-3503) with a January 28, 2019, due date. Exhibit A, pp 50-51.
11. On January 17, 2019, the Department sent Petitioner a SER Verification Checklist (DHS-3503-SER) with a January 24, 2019, due date. Exhibit A, pp 52-53.
12. On January 18, 2019, the Department sent Petitioner a Notice of Missed Interview (DHS-254). Exhibit A, p 54.
13. On January 23, 2019, the Department notified Petitioner that his State Emergency Relief (SER) application had been denied. Exhibit A, pp 55-57.
14. On February 11, 2019, the Department notified Petitioner that his Food Assistance Program (FAP) application had been denied. Exhibit A, pp 58-59.
15. On January 7, 2019, the Department notified Petitioner that his Food Assistance Program (FAP) application had been denied. Exhibit A, pp 9-12.
16. On March 6, 2019, the Department received Petitioner's request for a hearing protesting the denial of Food Assistance Program (FAP) and State Emergency Relief (SER) benefits. Exhibit A, pp 5-6.

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.

Clients must cooperate with the local office in determining initial and ongoing eligibility and this includes the completion of necessary forms. Department of Human Services Bridges Assistance Manual (BAM) 105 (January 1, 2018), p 8.

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level when it is required by policy, required as a local office option, or information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. The Department uses documents, collateral contacts, or home calls to verify information. A collateral contact is a direct contact with a person, organization, or agency to verify information from the client. When documentation is not available, or clarification is needed, collateral contact may be necessary. Department of Human Services Bridges Assistance Manual (BAM) 130 (April 1, 2017), pp 1-10.

The Department will 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. BAM 130, p 7.

Petitioner's authorized representative filed separate applications for SER and FAP benefits on [REDACTED], 2018, and [REDACTED], 2018. These applications were denied when Petitioner failed to attend required eligibility interviews or return verification documents necessary to accurately determine his eligibility for benefits.

Department records indicate that attempts were made to contact Petitioner by telephone numerous times, but these records do not indicate what telephone number was called. The evidence does not establish that the notice of the eligibility interview was sent to Petitioner's authorized representative. The evidence does not establish that the verification checklist forms were sent to Petitioner's authorized representative.

Petitioner's representatives provided telephone records showing that no incoming calls were received at Petitioner's or his representative telephone number from the Department at the time the Department records indicate that attempts were made to conduct eligibility interviews. The telephone records also show attempts by his authorized representative to contact the Department concerning the applications for assistance.

This Administrative Law Judge finds that Petitioner did not refuse to provide the Department with the information necessary to determine his eligibility for FAP and SER benefits, and that he and his authorized representative made reasonable attempts to cooperate with the Department's requests.

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 did not act in accordance with Department policy when it denied Petitioner's Food Assistance Program (FAP) and State Emergency Relief (SER) applications.

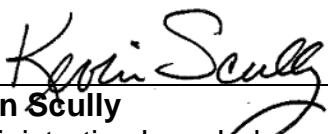
DECISION AND ORDER

Accordingly, the Department's decision is REVERSED.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, 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. Re-register the [REDACTED] 2018, State Emergency Relief (SER) application and initiate a determination of the Petitioner's eligibility.
2. Re-register the [REDACTED], 2018, Food Assistance Program (FAP) application and initiate a determination of the Petitioner's eligibility, and issue the Petitioner any retroactive benefits he may be eligible to receive, if any.

KS/dh



Kevin Scully
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

Tamara Morris
125 E. Union St 7th Floor
Flint, MI 48502

Genesee County, DHHS

BSC2 via electronic mail

T. Bair via electronic mail

M. Holzhausen via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

[REDACTED]
MI

Counsel for Petitioner

[REDACTED]
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