



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: October 21, 2019
MOAHR Docket No.: 19-010217
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm

HEARING DECISION

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, 7 CFR 273.15, and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on October 16, 2019, from Lansing, Michigan. Petitioner, [REDACTED], appeared and represented herself. Respondent, Department of Health and Human Services (Department), had April Nemeč, Hearing Facilitator, appear as its representative. Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 52-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

ISSUES

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

Did the Department properly terminate Petitioner's Food Assistance Program (FAP) 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. Petitioner was a FAP recipient.
2. On [REDACTED] 2019, Petitioner applied for SER to get assistance with her water or sewage bill of \$ [REDACTED].

3. On July 30, 2019, the Department mailed an appointment notice to Petitioner to notify her that she was scheduled for a telephone interview on August 6, 2019, between 1:45 PM and 3:45 PM. The Department also mailed a verification checklist to Petitioner to instruct Petitioner to provide verification of her "savings account/Christmas club account" to the Department by August 9, 2019.
4. Petitioner received the appointment notice and understood that she would receive a call from the Department on August 6, 2019, between 1:45 PM and 3:45 PM.
5. On August 6, 2019, the telephone interview was not completed. Petitioner was waiting for a phone call and never received one.
6. On August 8, 2019, the Department issued a state emergency relief decision notice to Petitioner to notify her that her request for SER was denied because she missed her scheduled interview.
7. The Department did not receive Petitioner's verification of her "savings account/Christmas club account" or any other response by August 9, 2019.
8. On August 12, 2019, the Department mailed a notice of case action to Petitioner to notify her that her FAP benefits were closed effective September 1, 2019, because she did not return requested verifications.
9. On September 9, 2019, Petitioner requested a hearing to dispute the Department's decisions.

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).

STATE EMERGENCY RELIEF

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 pursuant to MCL 400.10 and Mich Admin Code, R 400.7001-.7049.

In this case Petitioner requested a hearing to dispute the Department's denial of her request for SER to pay her water or sewage bill of \$ [REDACTED]. The Department denied Petitioner's request because it determined that Petitioner missed her scheduled interview. All SER applications require an interview. ERM 103 (March 1, 2019), p. 5. At the hearing, Petitioner testified that she was waiting for a phone call from the Department during the time it was scheduled to call her, and she never received one.

The Department did not present sufficient evidence to rebut Petitioner's testimony. Thus, I must find that the Department did not attempt contact Petitioner to complete the scheduled interview as it said it would in its notice. Therefore, Petitioner has met her burden to establish that the Department did not act properly when it denied her request for SER.

The Department's denial of Petitioner's request for SER must be reversed, which means that the Department must complete the interview (if the emergency still exists) and then make a decision on Petitioner's request.

FOOD ASSISTANCE

The Food Assistance Program (FAP) 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 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 requested a hearing to dispute the Department's termination of her FAP benefits. The Department terminated Petitioner's FAP benefits because she did not provide requested verifications.

The Department must tell a client what verification is required, how to obtain it, and the due date. BAM 130 (April 1, 2017), p. 3. The Department must allow the client 10 calendar days to provide requested verification. *Id.* at 7. Verifications must be received by the Department by the due date in order to be considered timely. *Id.* The Department must send a Negative Action Notice when either (a) the client indicates a refusal to provide a verification or (b) the due date lapses and the client has not made a reasonable effort to provide verifications. *Id.*

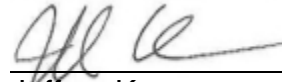
The Department sent Petitioner a verification checklist which instructed Petitioner what verification was required, how to obtain it, and the due date. It was Petitioner's responsibility to obtain the requested verification and to make sure the Department received it by the due date. Petitioner did not provide the requested verification by the due date, so the Department properly issued a notice of case action which terminated Petitioner's FAP benefits due to her failure to provide the requested verification.

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 (a) the Department did not act in accordance with its policies and the applicable law when it denied Petitioner's request for SER, and (b) the Department did act in accordance with its policies and the applicable law when it terminated Petitioner's FAP benefits.

IT IS ORDERED the Department's decision to deny Petitioner's request for SER is **REVERSED**, and the Department's decision to terminate Petitioner's FAP benefits is **AFFIRMED**.

JK/ml



Jeffrey Kemm
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

DHHS

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

Genesee-Union St District – Via Electronic
Mail

BSC2 – Via Electronic Mail

T. Bair – Via Electronic Mail

E. Holzhausen – Via Electronic Mail

M. Holden – Via Electronic Mail

D. Sweeney – Via Electronic Mail

Petitioner

[REDACTED] – Via First Class Mail
[REDACTED]
MI
[REDACTED]