



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED], MI [REDACTED]

Date Mailed: October 18, 2019
MOAHR Docket No.: 19-010220
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, Helen Price, appeared and represented herself. Respondent, Department of Health and Human Services (Department), had Natalie McLaurin, Hearing Facilitator, appear as its representative. Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 28-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 determine Petitioner's Food Assistance Program (FAP) 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. Petitioner lives with her two grandchildren. Their household income is composed of Petitioner's supplemental security income (SSI) of \$ [REDACTED] per month and her grandchildren's retirement, survivors, and disability insurance (RSDI) of \$ [REDACTED] per month.

2. On [REDACTED] 2019, Petitioner applied for SER assistance from the Department so that she could pay the \$975.00 security deposit on a home she was trying to rent.
3. Petitioner was homeless when she applied for SER.
4. On August 13, 2019, Petitioner applied for FAP benefits from the Department.
5. On August 14, 2019, the Department issued a state emergency relief decision notice which notified Petitioner that her request for SER was denied because her copayment amount exceeded the amount needed to pay the security deposit.
6. On August 15, 2019, Petitioner requested a hearing to dispute the Department's denial of her request for SER. Petitioner also indicated she wanted to dispute her FAP benefits.
7. The Department had not made a decision on Petitioner's application for FAP benefits as of the date Petitioner requested a hearing to dispute her FAP benefits.

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 the \$975.00 security deposit on a home she was trying to rent. The Department denied Petitioner's request because it determined that her copayment amount exceeded the amount needed to pay the security deposit.

When an individual applies for SER for a security deposit, it is considered a request for non-energy SER services. A household is eligible for non-energy SER services with respect to income if the total combined monthly net income that is received or expected to be received by all group members in the 30-day countable income period does not exceed the applicable standard. ERM 208 (June 1, 2019), p. 1. The applicable standard for a household size of three was \$625.00. *Id.* at 6. Income that is more than the applicable standard must be deducted from the cost of resolving the emergency. *Id.* at 1.

Petitioner's household income included her income from SSI and her grandchildren's income from RSDI. Their total combined monthly income was \$ [REDACTED]. Since the applicable non-energy standard was \$625.00, Petitioner's household income exceeded the standard by \$ [REDACTED]. Since Petitioner's household income exceeded the standard by more than the amount required for the security deposit, Petitioner's copayment amount exceeded the amount required to resolve the emergency. Thus, Petitioner was not eligible for SER. Therefore, the Department properly denied Petitioner's request for SER.

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 her FAP benefits before she received a decision from the Department on her application for FAP benefits. Petitioner applied for FAP benefits on [REDACTED], 2019, and Petitioner requested a hearing on August 15, 2019. The Department has 29 days to process a FAP application. BAM 115 (April 1, 2019), p. 17. Petitioner's hearing request was premature because Petitioner filed her hearing request to dispute her FAP benefits before the Department had issued a decision on her application for FAP benefits and before the Department's time limit for processing her application had expired. Since Petitioner's hearing request was premature, the Michigan Office of Administrative Hearings and Rules does not have jurisdiction to address any of Petitioner's FAP issues. Petitioner may file a new hearing request to dispute her FAP benefits if either of the following occur: (1) Petitioner receives a FAP decision she disagrees with or (2) the Department fails to issue a decision on Petitioner's application for FAP benefits within 29 days of the date of her application.

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 the Department did act in accordance with its policies and the applicable law when it denied Petitioner's request for SER in its decision issued on August 14, 2019, and the Michigan Office of Administrative Hearings and Rules does not have jurisdiction to address Petitioner's FAP issues because her hearing request was filed prematurely.

IT IS ORDERED the Department's decision 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

Kathleen Verdoni
411 East Genesee
P.O. Box 5070
Saginaw, MI
48607

Saginaw County DHHS – Via Electronic
Mail

BSC2 – Via Electronic Mail

M. Holden – Via Electronic Mail

D. Sweeney – Via Electronic Mail

T. Bair – Via Electronic Mail

E. Holzhausen – Via Electronic Mail

Petitioner

 – Via First Class Mail
MI