



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

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

Date Mailed: October 29, 2019  
MOAHR Docket No.: 19-010417  
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 October 24, 2019.

Petitioner appeared unrepresented.

The Department of Health and Human Services (Department) was represented by Bard Reno, HF.

Department Exhibit A.37 was offered and admitted into evidence.

### **ISSUES**

- 1) Did the Department properly process Petitioner's Food Assistance Program (FAP) application?
- 2) Did the Department properly process Petitioner's 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], Petitioner applied for FAP and SER benefits. Petitioner indicated on his application that he had 2 or more drug related felonies.

2. The Department did not run a check on drug related felonies.
3. On September 10, 2019, the Department denied the FAP application on the grounds that Petitioner had two or more drug related felonies since August 22, 1996. Exhibit A.31.
4. On September 10, 2019, the Department denied the SER application on the grounds that Consumers Power verification indicated that Petitioner had a history of illegal use of heat and electric. Exhibit A.35.
5. On September 23, 2019, 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.

In this case, applicable policy is found in BAM 105, 110, 115, 220, 600 and BEM 203; ERM 102, 103, 301. Corresponding federal regulations are found at 7 CFR 273.2, 273.1, 273.11, and 273.2.

Here, Petitioner testified that he misread the application question and answered yes to drug related felonies since 1996 and should have answered no. The Department stipulated that it did not run a check as to whether Petitioner has had past drug related felonies and is willing to have Petitioner's [REDACTED], application reinstated with potential eligibility and benefits paid if a search supported the Petitioner's argument. As such, the Department requested that the Administrative Law Judge reverse the FAP denial so as to reinstate the application and reprocessing of the application with regard to September 10, 2019, FAP eligibility.

As to the ERM application, Petitioner had no evidence that Consumers statement found in Exhibit A regarding theft was incorrect. As such, the denial is upheld. Petitioner

understands that he can reapply and would be required to deliver necessary verifications.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, 1) reverses the FAP denial, and 2) upholds the SER denial.

**DECISION AND ORDER**

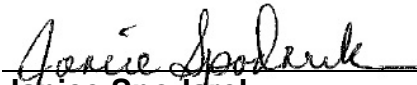
Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to the September 10, 2019, SER denial and **REVERSED IN PART** with respect to September 10, 2019, FAP denial.

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. Reinstate Petitioner's September 10, 2019, FAP application, and
2. Run a check on the state's database regarding whether Petitioner has had 2 or more drug related felonies after August 22, 1996, and
3. Reprocess Petitioner's FAP case based on the information obtained, and
4. Issue any supplemental benefits to Petitioner if otherwise eligible, and
5. Issue written notice to Petitioner as to the outcome of the reprocessing of Petitioner's September 10, 2019, application.

**IT IS SO ORDERED.**

JS/hb

  
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**Janice Spodarek**  
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 County (Union), DHHS

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**

MI