



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: February 3, 2020
MOAHR Docket No.: 19-012917
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, 45 CFR 205.10, and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on January 29, 2020, from Lansing, Michigan. Petitioner, [REDACTED], appeared and represented herself. Respondent, Department of Health and Human Services, had Angela Barbee, appear as its representative. Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. An 18-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 SER for heat and electricity?

Did the Department properly close Petitioner's Family Independence Program (FIP) assistance effective December 1, 2019?

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 is employed by [REDACTED]. Petitioner received wages of \$ [REDACTED] on October 31, 2019, \$ [REDACTED] on October 17, 2019, and \$ [REDACTED] on October 3, 2019.
2. Petitioner receives \$ [REDACTED] per month for a veteran's benefit.
3. Petitioner has six minor children and one adult child living with her.

4. On November 1, 2019, Petitioner's social security (SSI) was terminated.
5. On [REDACTED] 2019, Petitioner applied for SER to get assistance with heat and electricity bills.
6. The Department reviewed Petitioner's application for SER and determined that Petitioner's income/asset copayment shortfall and contribution was equal to or greater than the amount needed to resolve her emergency, so the Department decided to deny Petitioner's request for SER.
7. On November 15, 2019, the Department mailed a state emergency relief decision notice to Petitioner to notify her that her request for SER was denied. The Department also mailed a notice of case action to Petitioner to notify her that her FIP was going to be closed effective December 1, 2019, because Petitioner was no longer considered disabled by social security and her income exceeded the program limit.
8. On December 3, 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.

When an individual applies for SER, the Department must complete a budget to determine the individual's eligibility. ERM 103 (March 1, 2019), p. 3. The budget calculates payment maximums, required payments, income and asset copayment, client contributions, and determines eligibility. *Id.* In this case, the Department denied Petitioner's request for SER because the Department determined that Petitioner's income/asset copayment shortfall and contribution was equal to or greater than the amount needed to resolve her emergency. However, the Department did not present any evidence to establish that it properly determined Petitioner's eligibility. The Department did not present a copy of the budget it used, and the Department did not explain the budgeting process it used. Based on the evidence presented, the Department did not establish that it acted in accordance with its policies and the applicable law.

Since Petitioner disputed the Department's decision, and since the Department did not establish that it acted in accordance with its policies and the applicable law, the Department's decision must be reversed. The Department must determine if the emergency still exists, and if it does, the Department must redetermine Petitioner's eligibility in accordance with ERM 103. The Department must then send Petitioner a new notice with its decision.

FAMILY INDEPENDENCE PROGRAM

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101-.3131.

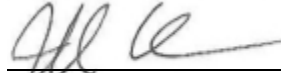
In order to be eligible for FIP, a group must be composed of a dependent child who lives with a legal parent, stepparent, or other qualifying caretaker. BEM 210 (January 1, 2020), p. 1. An SSI recipient is a FIP group member, and her income, assets, and needs are not considered in determining FIP eligibility. *Id.* at 8. In this case, Petitioner was receiving SSI, so her income, assets, and needs were not considered in determining FIP eligibility. However, Petitioner lost her SSI, so the Department then had to consider her income, assets, and needs. When the Department considered Petitioner's income, assets, and needs, the Department determined that Petitioner was ineligible for FIP because her income exceeded the limit. Thus, the Department closed Petitioner's FIP.

An individual is ineligible for FIP under the issuance deficit test when the group's budgetable income minus the group's FIP payment standard does not result in a deficit of at least \$10.00. BEM 518 (January 1, 2020), p. 3. In this case, Petitioner's group had a monthly income of more than [REDACTED] when Petitioner's earned income was considered. Petitioner's FIP payment standard for a group of seven was \$905.00. Since Petitioner's monthly income exceeded her FIP payment standard, Petitioner was ineligible for FIP because she did not have a deficit of at least \$10.00. Therefore, the Department properly determined that Petitioner was ineligible for FIP.

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 found Petitioner ineligible for SER, and (b) the Department did act in accordance with its policies and the applicable law when it found Petitioner ineligible for FIP.

IT IS ORDERED the Department's decision is **REVERSED IN PART**. The Department shall begin to implement this decision within 10 days.



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

Deborah Little
5131 Grand River Ave.
Detroit, MI 48208

Wayne (District 49) – Via Electronic Mail

T. Bair – Via Electronic Mail

E. Holzhausen – Via Electronic Mail

G. Vail – Via Electronic Mail

B. Cabanaw – Via Electronic Mail

Petitioner

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