



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]

Date Mailed: April 23, 2021
MOAHR Docket No.: 21-001489
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 hearing was held via telephone conference line on April 15, 2021. Petitioner participated and was unrepresented.¹ The Michigan Department of Health and Human Services (MDHHS) was represented by Michelle Collins, hearings coordinator.

ISSUES

The first issue is whether MDHHS properly determined Petitioner's Food Assistance Program (FAP) eligibility.

The second issue is whether MDHHS properly processed Petitioner's State Emergency Relief (SER) request for energy assistance.

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], 2021, Petitioner submitted to MDHHS an application requesting FAP benefits and SER-energy for a household of one person.
2. As of February 2021, Petitioner received \$878 in monthly Retirement, Survivors, Disability Insurance (RSDI)

¹ Towards the end of the hearing, Petitioner stated that she would email evidence, but she needed to exit the call to send it. After at least 20 minutes of waiting, Petitioner neither sent the evidence nor called back to participate in the hearing. The record was closed shortly thereafter. On April 16, 2021, Petitioner called the Michigan Office of Administrative Hearings and Rules to ask if she could still submit the evidence. Petitioner was not told that she could not; as of the draft date of this decision, no additional evidence was received from Petitioner.

3. As of February 2021, Petitioner had no childcare, child support, or medical expenses.
4. As of February 2021, Petitioner was responsible for \$56.86 in average monthly housing expenses and an obligation for heating and/or cooling.
5. On an unspecified date, MDHHS denied Petitioner's application for FAP benefits for unspecified reasons.
6. On an unspecified date, MDHHS denied Petitioner's application for SER-energy for unspecified reasons.
7. On February 12, 2021, Petitioner requested a hearing to dispute the denial of her applications for FAP and SER-energy.
8. On February 22, 2021, MDHHS approved Petitioner for SER-energy subject to a \$75 copayment to be paid by March 9, 2021.
9. On March 8, 2021, MDHHS approved Petitioner for \$48 in FAP benefits beginning February 2021 and \$62 in monthly FAP benefits thereafter.
10. As of March 9, 2021, Petitioner failed to submit to MDHHS proof of a \$75 copayment.

CONCLUSIONS OF LAW

The Food Assistance Program [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. MDHHS administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing, in part, to dispute the denial of an application requesting FAP benefits. Exhibit A, p. 4. Petitioner's application dated [REDACTED], 2021 was presented.² Exhibit A, pp. 6-12. MDHHS testified that Petitioner also submitted an application on [REDACTED], 2021. The analysis will address Petitioner's earlier application as the earlier application date can only favor Petitioner. No evidence was presented justifying the denial. In fact, MDHHS's Hearing Summary acknowledged that Petitioner's application was improperly denied. Exhibit A, p. 1. MDHHS eventually approved Petitioner's application. A Notice of Case Action dated March 8, 2021, stated that Petitioner was approved for \$62 in monthly FAP benefits beginning March 2021

² MDHHS testified that Petitioner's application was registered as received on February 12, 2021, presumably because it was submitted after business hours.

and that February 2021 benefits were approved for \$48 due to proration. Exhibit A, pp. 15-16. Despite the approval Petitioner stated that she still disputed the amount of FAP eligibility.³

BEM 556 outlines the factors and calculations required to determine a client's net income for FAP benefits. FAP net income factors group size, countable monthly income, and relevant monthly expenses. The determination notice sent to Petitioner included a budget summary which listed all relevant budget factors. During the hearing, all budget factors were discussed with Petitioner.

In determining Petitioner's FAP eligibility, MDHHS factored a group size of one.⁴ Petitioner did not dispute the benefit group size.

MDHHS factored an unearned income of [REDACTED] from RSDI. For FAP benefits, gross RSDI is countable. BEM 503 (January 2020) p. 29. Petitioner did not dispute the RSDI budgeted.

MDHHS uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554 (October 2015), p. 1. For groups without a senior (over 60 years old), disabled or disabled veteran (SDV) member, MDHHS considers the following expenses: childcare, excess shelter (housing and utilities) up to a capped amount and court-ordered child support and arrearages paid to non-household members (see *Id.*). For groups containing SDV members, MDHHS also considers the medical expenses above \$35 for each SDV group member(s) and an uncapped excess shelter expense.

MDHHS factored \$0 for Petitioner's child support, dependent care and medical expenses. Petitioner did not dispute any of these expenses.

Petitioner's FAP benefit group size justifies a standard deduction of \$167 (see RFT 255). The standard deduction is given to all FAP benefit groups, though the amount varies based on the benefit group size. The standard deduction and countable expenses are subtracted from the countable monthly income to calculate the group's adjusted gross income. Subtracting the standard deduction and countable expenses from Petitioner's countable income results in an adjusted gross income of [REDACTED].

MDHHS credited Petitioner with undisputed monthly housing expenses of \$56.86. MDHHS also credited Petitioner with a standard heating/utility (h/u) credit of \$537. RFT 255 (October 2020) p. 1. Generally, the h/u credit covers all utility expenses and is the

³ Though Petitioner was only eligible for \$62 in monthly FAP benefits, she should have received the maximum amount of FAP benefits for her group size. Petitioner only received the maximum FAP issuance due to a temporary policy during the COVID-19 pandemic. As the policy is only temporary, a full analysis of Petitioner's FAP eligibility is appropriate.

⁴ See BEM 212 for policies on determining group size for FAP benefits.

maximum credit available.⁵ Adding Petitioner's housing and utility credits results in a total shelter obligation of \$594 (rounding up to nearest dollar).

MDHHS only credits FAP benefit groups with an "excess shelter" expense. The excess shelter expense is calculated by subtracting half of Petitioner's adjusted gross income from Petitioner's total shelter obligation (housing + utilities). Petitioner's excess shelter amount is \$239 (rounding up to nearest dollar).

The FAP benefit group's net income is determined by subtracting the excess shelter expense from the group's adjusted gross income; doing so results in [REDACTED] in net income for Petitioner's group. A chart listed in RFT 260 is used to determine the proper FAP benefit issuance. Based on Petitioner's group size and net income, Petitioner's proper FAP benefit issuance for March 2021 is \$62; the same issuance amount was calculated by MDHHS.

Concerning Petitioner's FAP eligibility for February 2021, MDHHS took the additional step of pro-rating Petitioner's FAP benefits based on an application date of [REDACTED], 2021. MDHHS is to prorate FAP benefits in the month of application by multiplying the monthly benefits by the number of days remaining in the month including the application date and dividing this amount by the total number of days in the month. BEM 556 ([REDACTED] 2021) p. 6. Multiplying Petitioner's benefit amount of \$62 by 21 (the number of days left in the application month) and dividing by 28 (the number of days in the application month) results in a benefit amount of \$46 for February 2021; the same amount was calculated by MDHHS. MDHHS properly determined Petitioner's FAP eligibility.

Petitioner also requested a hearing to dispute a denial of SER eligibility. Petitioner's testimony clarified that she only disputed her request for SER-energy assistance. Like with her FAP eligibility, MDHHS acknowledged that Petitioner's application was improperly denied for unspecified reasons. Again, MDHHS corrected its error. A SER Decision Notice dated March 8, 2021, stated that Petitioner was approved for [REDACTED] towards energy services subject to a \$75 income/asset copayment by Petitioner. Exhibit A, pp. 13-14. The notice also stated that Petitioner must submit proof of her copayment to MDHHS by March 9, 2021. The only dispute raised by Petitioner during the hearing was whether she timely submitted proof of her copayment.

If the SER group meets all eligibility criteria but has a copayment, shortfall or contribution, MDHHS is to not issue payment until the client provides proof that their payment has been made or will be made by another agency. ERM 208 (December 2019) p. 5. Verification of payment must be received in the local office within the 30-day eligibility period or no SER payment will be made, and the client will then have to reapply. *Id.* The SER Decision Notice, must be used to inform the SER group of the amounts that they must pay and the due date for returning proof of their payment. *Id.* The deadline date is always the last day of the 30-day eligibility period regardless of when the client requests the service. *Id.*

⁵ MDHHS allows additional credits for "actual utility expenses". Such expenses are only allowed for utility installation charges, water well installation and maintenance, and septic installation and maintenance. BEM 554 (October 2019) p. 15. There was no evidence of applicable exceptions.

Petitioner applied for SER on [REDACTED], 2021, when she also applied for FAP benefits. The eligibility period begins with the application date. ERM 103 (March 2019) p. 2. Thus, Petitioner had until the 30th day after [REDACTED], 2021, to submit to MDHHS proof of her \$75 copayment.

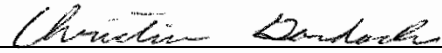
During the hearing, MDHHS credibly testified that a check of Petitioner's submissions since her application date uncovered no proof of a copayment. Petitioner responded that she submitted proof of copayment through the MIBridges app. If Petitioner's testimony is accurate, the app should have a record of her submission. During the hearing, Petitioner was asked if she could submit an electronic copy of her submission. Petitioner testified that she could, but she would have to end the call. Petitioner was also advised to call back if she had any trouble. After 20 minutes, Petitioner neither submitted her evidence nor called back into the conference line.

Given the evidence, Petitioner did not timely submit proof of an SER copayment to MDHHS. Thus, MDHHS properly did not issue SER payment for energy services. As stated above, Petitioner's recourse is to reapply for SER.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly determined Petitioner to be eligible for \$48 in FAP benefits beginning February 2021 and \$62 thereafter. It is further found that MDHHS properly did not issue SER payment for energy services stemming from Petitioner's SER application dated [REDACTED], 2021. The actions taken by MDHHS are **AFFIRMED**.

CG/jem



Christian Gardocki
Administrative Law Judge
For Elizabeth Hertel, 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

Via Email:

MDHHS-Wayne-55-Hearings
BSC4-HearingDecisions
M. Holden
D. Sweeney
T. Bair
E. Holzhausen
MOAHR

Petitioner – Via First-Class Mail:

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