



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]

Date Mailed: July 2, 2021
MOAHR Docket No.: 21-002540
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm

HEARING DECISION

On May 20, 2021, Petitioner, [REDACTED], requested a hearing to dispute an April 30, 2021, notice of case action regarding Food Assistance Program (FAP) benefits and an April 30, 2021, State Emergency Relief (SER) decision notice. As a result, a hearing was scheduled to be held on May 19, 2021, pursuant to MCL 400.9, 7 CFR 273.15, and Mich Admin Code, R 792.11002. Petitioner appeared at the hearing and represented herself. Respondent, Department of Health and Human Services (Department), had Valarie Foley, Hearing Facilitator, appear as its representative. Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 20-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

ISSUES

Whether the Department properly decreased Petitioner's FAP benefit effective June 1, 2021?

Whether the Department properly determined Petitioner's copayment for SER?

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 applied for SER from the Department to get assistance with her DTE gas and electric utilities.
2. Petitioner listed her daughter, [REDACTED], as a member of her household on her SER application.

3. The Department processed Petitioner's SER application and noticed that Petitioner listed [REDACTED] as a household member; the Department added [REDACTED] to Petitioner's FAP case since she was a member of Petitioner's household.
4. The Department redetermined Petitioner's eligibility for FAP benefits with [REDACTED] included as a group member, and the Department determined that Petitioner was eligible for a \$592.00 monthly FAP benefit with [REDACTED] included.
5. The addition of [REDACTED] as a group member caused Petitioner's FAP benefit to decrease because [REDACTED] receives income from unemployment benefits, and [REDACTED] income increased Petitioner's household income.
6. On April 30, 2021, the Department mailed a notice of case action to Petitioner to notify her that her FAP benefits were going to decrease to \$592.00 effective June 1, 2021.
7. In processing Petitioner's application for SER, the Department determined that Petitioner owed DTE \$1,138.71 for gas and \$3,028.42 for electric.
8. Pursuant to a pandemic policy, the Department found Petitioner eligible for \$850.00 in SER for her heat and \$850.00 in SER for her electric.
9. On April 30, 2021, the Department mailed a notice of case action to Petitioner to notify her that she was approved for SER and that her copayment amount was \$2,467.13.
10. On May 20, 2021, Petitioner requested a hearing to dispute the Department's FAP and SER 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).

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 is disputing the Department's decision to add her daughter, [REDACTED], to her FAP group because it decreased her FAP benefits. Petitioner asserted that [REDACTED].

should not be a member of her group because she does not live in Petitioner's home. In support of this position, Petitioner asserted that [REDACTED] is temporarily absent and comes and goes as she pleases.

Petitioner did not present sufficient evidence to establish that the Department improperly added [REDACTED] to her FAP group. Petitioner identified [REDACTED] as a household member on her SER application, Petitioner was unable to identify where [REDACTED] lives other than Petitioner's home, and Petitioner testified that her home utilities are in [REDACTED] name. These facts would lead a reasonable person to conclude that [REDACTED] is a member of Petitioner's household. A FAP group is based on the household concept, which includes individuals who are living together and purchasing and preparing food together as one group. 7 CFR 273.1. Based on the evidence presented, the Department properly determined that [REDACTED] should be included in Petitioner's group.

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 is disputing the Department's decision to require her to make a copayment to receive SER. The maximum amount of SER that may be approved for heat is \$850.00, and the maximum amount of SER that may be approved for electric is \$850.00. ERM 301 (October 1, 2020), p. 11. The Department approved Petitioner for the maximum for both her heat and electric. However, the maximum benefit was insufficient to pay the balance of Petitioner's heat and electric, so the Department required Petitioner to pay the balance to resolve her emergency.

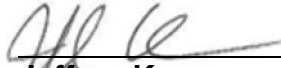
The Department properly required Petitioner to make a copayment to receive SER. When SER is insufficient to resolve the emergency, the SER group is required to contribute toward the cost of resolving the emergency. ERM 208 (May 1, 2021), p. 3. The SER group must pay its portion before the Department will issue an SER payment. ERM 103 (December 1, 2020), p. 4. Since the Department approved Petitioner for the maximum SER benefit for heat and electric, and since it was insufficient to resolve her emergency, the Department properly required Petitioner to contribute to the cost to resolve the emergency before the Department would issue any SER payments.

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 acted in accordance with its policies and the applicable law when it (a) decreased Petitioner's FAP benefit effective June 1, 2021, and (b) determined Petitioner's copayment for SER.

IT IS ORDERED, the Department's decisions are **AFFIRMED**.

JK/cc



Jeffrey Kemm
Administrative Law Judge

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-19-Hearings
BSC4-HearingDecisions
M. Holden
D. Sweeney
E. Holzhausen
T. Bair
MOAHR

Petitioner- Via USPS:

