



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: July 2, 2021
MOAHR Docket No.: 21-002780
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Landis Lain

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 June 30, 2021, from Lansing, Michigan. Petitioner [REDACTED] appeared and self-represented. The Department of Health and Human Services (Department or Respondent) was represented by Sheila Crittendon, Family Independence Manager.

Department's Exhibit A pages 1-45 were admitted as evidence.

ISSUE

Did the Department properly deny Petitioner's application for benefits?

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 was receiving Medical Assistance (MA) and Food Assistance Program (FAP) benefits.
2. On February 11, 2021, the Department approved Petitioner for State Emergency Relief (SER) payment for electric shut off.
3. On [REDACTED] 2021, Petitioner applied for State Emergency Relief (SER) for a well repair.
4. Petitioner reported that she had [REDACTED] accounts, one [REDACTED] one [REDACTED] and one [REDACTED] account.

5. On February 22, 2021, a verification checklist was generated requesting proof of home ownership for the property that needed the repair and an estimate for the repair due March 1, 2021.
6. On February 23, 2021, the Department caseworker notified Petitioner that the department would need an estimate in order to make a determination for well repairs and advised her to contact local well drillers for an estimate and have it FAXED to the department by the appointment date of March 1, 2021.
7. On March 1, 2021, the verification checklist was not received so the SER application from [REDACTED] 2021, was denied for failing to return verification of the need (estimate) from a service provider.
8. On [REDACTED] 2021, a new application for SER was received requesting assistance with an electric shut off.
9. This was denied on the March 11, 2021, as the department had already approved a SER payment for electric on February 16, 2021.
10. Based on the interview and the previous SER application there was some questions or discrepancies about self-employment.
11. The client was claiming that she was self-employed but stated that she did not have to claim the money because it is a hobby.
12. The worker consulted with a manager that confirmed that we needed to verify this income for the FAP, MA and MA Cost-Share.
13. On March 11, 2021, a verification checklist was sent to the client along with DHHS 431 which is used to verify self-employment income and expenses with a due date of March 22, 2021.
14. On March 11, 2021, the Department sent Petitioner a State Emergency Relief Notice indicating that SER was denied in the amount of \$478.96 because DHHS will only issue one payment for heat and one payment for non-heat electricity between October 1 and September 30 each year.
15. On March 23, 2021, the Department sent Petitioner Notice of Case Action that the FAP benefits would close effective May 1, 2021 ongoing because verification of unknown self-employment income was not returned for Petitioner.
16. On March 30, 2021, Petitioner filed a Request for hearing to contest the negative actions.
17. On April 29, 2021, a telephone pre-hearing was held.
18. MA and MA Cost-Share programs were pended to close, but the Department was unable to close the cases because of COVID memorandum ESA 2020-12.

19. Food Assistance Program benefits were reinstated, and Petitioner received the full Food Assistance Program amount upon reinstatement.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance has been denied. MAC R 400.903(1). Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

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 Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

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.

As a trier of fact, the Administrative Law Judge must determine the weight, the effect and the value of the evidence. The Administrative Law Judge must consider and weigh the testimony of all witnesses and evidence.

When a hearing is requested, the presiding Administrative Law Judge conducts a *de novo* review, in which the Respondent has the threshold burden to prove, by a preponderance of the evidence, that appropriate action was taken.

A preponderance of evidence is evidence which is of a greater weight or more convincing than evidence offered in opposition to it. It is simply that evidence which outweighs the evidence offered to oppose it *Martucci v Detroit Commissioner of Police*, 322 Mich 270; 33 NW2d 789 (1948).

Pertinent Department policy dictates:

All Programs Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements.

Obtain verification when:

- Required by policy. Bridges Eligibility Manual (BEM) items specify which factors and under what circumstances verification is required.
- Required as a local office option. The requirement must be applied the same for every client. Local requirements may not be imposed for Medicaid Assistance (MA).
- Information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory. The questionable information might be from the client or a third party.

Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. (Bridges Administrative Manual (BAM) 130, page 1)

Medicaid

Allow the client 10 calendar days (or other time limit specified in policy) to provide the verification requested. Refer to policy in this item for citizenship verifications. If the client cannot provide the verification despite a reasonable effort, extend the time limit up to two times.

At renewal if an individual is required to return a pre-populated renewal form, allow 30 calendar days for the form to be returned.

At application, renewal, *ex parte* review, or other change, explain to the client/authorized representative the availability of your assistance in obtaining needed information. Extension may be granted when the following exists:

- The customer/authorized representative need to make the request. An extension should not automatically be given.

- The need for the extension and the reasonable efforts taken to obtain the verifications are documented.
- Every effort by the department was made to assist the client in obtaining verifications. (BEM 130)

Petitioner testified on the record that her business is non-profit. She stated that she does not receive income from the business, and it is a hobby. Her business does not have 501(c)(3) non-profit status.

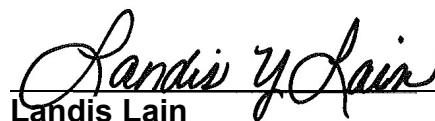
In this case, the evidence establishes that the Petitioner indicated on her application for benefits that she was self-employed and that she had a [REDACTED] account with a balance of [REDACTED] at [REDACTED]. Petitioner did not supply proof of income, or recent business receipts, accounting or business records or a recent tax return that contained information about the business. Petitioner did not fill out and return the Self-Employment Income and Expense Statement. Petitioner did not provide the Department with a written estimate of proposed home repairs (well repair). Required documentation was not received by the Department as requested. Petitioner has not established good cause for her failure to return the information to the Department. The Department's case is established by a preponderance of the evidence presented.

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 has established by the necessary competent, material and substantial evidence on the record that it acted in accordance with Department policy when it proposed to cancel Petitioner's Medical Assistance Program and Food Assistance Program benefits and when it denied Petitioner's application for assistance with well repair when Petitioner failed to provide requested redetermination documentation.

Accordingly, the Department's decision is **AFFIRMED**.

LL/ml



Landis Lain
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

DHHS – via electronic mail

MDHHS-GR8North-Hearings
BSC1
T. Bair
E. Holzhausen
MOAHR

Petitioner – via first class mail

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