



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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██████████, MI ██████████

Date Mailed: July 22, 2022
MOAHR Docket No.: 22-002717
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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 July 21, 2022, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Sade Mason-Brown, Eligibility Specialist.

ISSUE

Did the Department properly deny 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 ██████████, 2022, Petitioner's son, and household member, applied for assistance with the household water utility (Exhibit A, pp. 32-45).
2. On June 23, 2022, the Department made a collateral contact with the Detroit Water and Sewage Department and was notified that the customer's water utility was not in shutoff notice (Exhibit A, p. 54).
3. On June 23, 2022, the Department sent Petitioner a State Emergency Relief Decision Notice informing her that her application for SER benefits was denied.
4. On ██████████ 2022, Petitioner submitted a request for hearing related to her Food Assistance Program (FAP) and SER benefit cases.

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).

FAP

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.

In this case, Petitioner submitted a request for hearing, in part, related to her FAP benefits. At the hearing, Petitioner could not articulate a clear basis for her hearing request. Petitioner alleged that the Department was failing to provide her with the COVID-19-related FAP supplements. However, the Department provided Petitioner's FAP Benefit Summary Inquiry, showing that she has been receiving the COVID-19 FAP supplement (Exhibit A, p. 47). Petitioner stated that her FAP benefit amount has been inconsistent but could not specify the period in which she was disputing. Petitioner indicated that her FAP benefits have fluctuated due to her son being removed and then added to her group. However, Petitioner has provided conflicting statements regarding her son's status as a FAP group member. In September 2021, Petitioner reported her son was out of the household (Exhibit A, p. 54). The Department removed Petitioner's son from her food group. On June 21, 2022, Petitioner questioned the Department as to why her son was not included in her FAP group (Exhibit A, p. 54). On [REDACTED], 2022, Petitioner submitted an application for FAP benefits indicating that she and her son buy and prepare food together, requiring both individuals to be included in the same group (Exhibit A, pp. 18-24). The Department processed Petitioner's FAP benefit case to include her son. On [REDACTED], 2022, Petitioner submitted an application for FAP benefits and indicated that her son buys and makes food separately (Exhibit A, pp. 25-31) and on the same date, Petitioner verbally indicated she wanted her son to be in his own food group (Exhibit A, p. 54). The Department removed Petitioner's son from her household. Petitioner provided inconsistent information to the undersigned ALJ and to the Department. Based on the evidence provided, the Department complied with every request made by the Petitioner and there was no negative action.

Per Department policy, the Michigan Office of Administrative Hearings and Rules may grant a hearing about any of the following: (i) denial of an application and/or supplemental payments; (ii) reduction in the amount of program benefits or service; (iii) suspension or termination of program benefits or service; (iv) restrictions under which benefits or services are provided; (v) delay of any action beyond standards of

promptness; or (vi) for FAP only, the current level of benefits or denial of expedited service. BAM 600 (April 2018), p. 5. As none of the previous conditions apply to Petitioner's case, it is found Petitioner's request for hearing is moot and there is no justiciable issue related to the FAP program. As such, the hearing request, therefore, **DISMISSED** for lack of jurisdiction.

SER

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, Petitioner's son, and household member, submitted a request for SER benefits for assistance with her water utility on [REDACTED] 2022. On June 23, 2022, the Department made a collateral contact with the Detroit Water and Sewage Department and was notified that the customer's water utility was not in shutoff notice. It was reported that due to the COVID-19 pandemic, no water utilities in the City of Detroit were being placed in shutoff. The Department denied Petitioner's SER application, as there was no emergency.

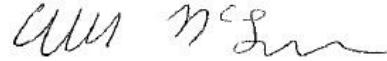
SER helps to restore or prevent shut off of certain utility services when service is necessary to prevent serious harm to the SER group members. ERM 302 (October 2021), p. 1. Water is a covered utility service. ERM 302, p. 1. For water, sewer and cooking gas, the Department will only authorize a maximum of \$350 per year. ERM 302, p. 1. Payment of an arrearage to maintain or restore service for the following utilities: water, sewer or cooking gas. ERM 302, p. 1. The payment must restore or continue service for at least 30 days at the current residence. ERM 302, p. 1. However, payments for current charges are not allowed. ERM 302, p. 1.

Per policy, an SER payment must help to restore or prevent the shut off certain utility services when service is necessary to prevent serious harm to the SER group members. As Petitioner's water utility was not shut off or at risk of being shut off, there is no emergency. Therefore, Petitioner is not eligible for SER benefits for her water utility and the Department acted in accordance with policy when it denied her SER application.

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 Department policy when it denied Petitioner's SER application. Accordingly, the Department's decision is **AFFIRMED**.

Petitioner's request for hearing related to her FAP benefit case is **DISMISSED**.



EM/tm

Ellen McLemore
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-Electronic Mail :

DHHS / Interested Parties

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M. Holden/D. Sweeney
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Via-First Class Mail :

Petitioner

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