



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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Date Mailed: September 9, 2022
MOAHR Docket No.: 22-003351
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

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 September 1, 2022, from Lansing, Michigan. The Petitioner represented herself. The Department of Health and Human Services (Department) was represented by Beth Bressler, Assistance Payments Supervisor and Tocarra Jones, Assistance Payments Supervisor just observing.

ISSUE

Did the Department properly determine the Petitioner's eligibility for Food Assistance Program (FAP) and State Emergency Relief (SER) 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. On ██████████ 2022, the Petitioner applied for FAP. Department Exhibit 1.
2. On ██████████ 2022, the Petitioner applied for SER benefits. Department Exhibit 2.
3. On July 15, 2022, the FAP phone interview was completed, and the Petitioner reported that she expected to work 25 to 30 hours per week at an hourly rate of ██████████. Department Exhibit 5-6.
4. The Petitioner submitted copies of check stubs for July 1, 2022, July 8, 2022, and July 15, 2022. Department Exhibit 7-9.

5. On July 18, 2022, the Department Caseworker spoke to the Petitioner's employer who confirmed that she would be working 30 hours for the week of July 19-23, 2022. Department Exhibit 10.
6. On July 21, 2022, the Department Caseworker sent the Petitioner a Notice of Case Action, DHS 1605, that her FAP benefits would be decreased effective August 1, 2022, due to increased income from employment from [REDACTED] a month to [REDACTED] per month for a household group size of 1. Department Exhibit 12.
7. On July 21, 2022, the Department Caseworker sent the Petitioner a Notice of Case Action, DHS 1605, that her SER application was denied due to excess income because her countable income was higher than the maximum allowed for this program. Department Exhibit 13-14.
8. On August 1, 2022, the Department received a hearing request from the Petitioner, contesting the Department's negative action.

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).

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 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, the Petitioner applied for FAP on [REDACTED] 2022. Department Exhibit 1. On [REDACTED] 2022, the Petitioner applied for SER benefits. Department Exhibit 2. On July 15, 2022, the FAP phone interview was completed, and the Petitioner reported that she expected to work 25 to 30 hours per week at an hourly rate of [REDACTED]. Department Exhibit 5-6. The Petitioner submitted copies of check stubs for July 1, 2022, July 8, 2022, and July 15, 2022. Department Exhibit 7-9.

On July 18, 2022, the Department Caseworker spoke to the Petitioner's employer who confirmed that she would be working 30 hours for the week of July 19-23, 2022. Department Exhibit 10. On July 21, 2022, the Department Caseworker sent the

Petitioner a Notice of Case Action, DHS 1605, that her FAP benefits would be decreased effective August 1, 2022, due to increased income from employment from [REDACTED] a month to [REDACTED] per month for a household group size of 1. Department Exhibit 12. On July 21, 2022, the Department Caseworker sent the Petitioner a Notice of Case Action, DHS 1605, that her SER application was denied due to excess income because her countable income was higher than the maximum allowed for this program. Department Exhibit 13-14. ERM 103 and 208. BEM 503, 554, and 556.

This Administrative Law Judge finds that the Petitioner submitted three check stubs of July 1, 2022, July 8, 2022, and July 15, 2022, that showed her actual income earned from employment. She was missing one check stub, which could have been June 24, 2022. The Department did not send out a Verification Checklist to ask for the missing check stub but used the Petitioner's and her employer's estimation of how many hours that she would be working for the week of July 22, 2022. The Petitioner did not work that many hours for that week and when adding up previous weeks, she may have been eligible for SER and additional FAP benefits. The prospective estimation resulted in the Petitioner being denied SER assistance and a decrease in her FAP benefits. The Department should have requested the missing check stub of June 24, 2022, through a verification checklist then if it was not received within 10 days, use prospective estimation to determine her income or deny the application for failure to provide verification.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied the Petitioner's SER application and lowered the Petitioner's FAP benefits due to excess income from estimated work hours when actual hours were available.

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

The Department is ordered to begin doing the following, in accordance with department policy and consistent with this hearing decision, within 10 days of the date of mailing of this decision and order of initiating a redetermination of the Petitioner's eligibility for FAP and SER retroactive to her FAP application dated [REDACTED] 2022, and SER application dated [REDACTED] 2022, by sending out a Verification Checklist for the June 24, 2022, check stub.

Based on policy, the Department should provide the Petitioner with written notification of the Department's revised eligibility determination and issue the Petitioner any retroactive benefits she may be eligible to receive, if any.

CF/cc

Handwritten signature of Carmen G. Fahie in cursive script.

Carmen G. Fahie
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 :

Interested Parties

MDHHS-Berrien-Hearings
BSC3-Hearing Decisions
D. Sweeney
M. Holden
E. Holzhausen
T. Bair
MOAHR

Via-First Class Mail :

Petitioner

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