



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: April 21, 2023
MOAHR Docket No.: 23-001064
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 April 12, 2023, from Lansing, Michigan. [REDACTED] the Petitioner, appeared on her own behalf. The Department of Health and Human Services (Department) was represented by Melissa Stanley, Hearing Facilitator (HF).

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-55.

ISSUES

Is there jurisdiction to address payment to Petitioner as a Child Development and Care (CDC) provider?

Did the Department properly determine Petitioner's eligibility for the Food Assistance Program (FAP)?

Did the Department properly determine Petitioner's eligibility for State Emergency Relief (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. Petitioner is enrolled as a CDC provider. (Exhibit A, pp. 1 and 9; HF Testimony)
2. Petitioner has never been the enrolled CDC provider for any CDC recipient. (Exhibit A, p. 10; HF Testimony)

3. On ██████████ 2022, Petitioner applied for FAP. (Exhibit A, pp. 1 and 11-26)
4. On July 1, 2022, a Notice of Case Action was issued to Petitioner approving FAP for a household of three with a benefit amount of \$394.00 for the period of July 1, 2022 to April 30, 2023. (Exhibit A, pp. 27-32)
5. On ██████████ 2023, Petitioner applied for SER. (Exhibit A, pp. 39-51)
6. On February 28, 2023, a SER Decision Notice was issued to Petitioner approving SER in the amount of \$794.34 for heat; \$376.00 for non-heat electricity; and \$125.71 for water or sewage with a copayment of \$141.48 that Petitioner would be responsible to pay before the Department will release the payment for Consumers and the rest of the water bill. (Exhibit A, pp. 52-55)
7. The updated information provided for the SER application was utilized to redetermine eligibility for FAP. (Exhibit A, p. 1; HF Testimony)
8. On February 28, 2023, a Notice of Case Action was issued to Petitioner approving FAP for a household of three with a benefit amount of \$122.00 for the period of March 1, 2023 to April 30, 2023. The notice indicated this was an increase in the monthly FAP benefit amount for Petitioner. (Exhibit A, pp. 34-38)
9. On March 1, 2023, Petitioner filed a hearing request contesting the lack of payment for three years for childcare services she provided as well as the FAP and SER determinations. (Exhibit A, pp. 4-7)

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).

CDC

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

Petitioner indicated that she has been providing childcare for several years without payment. Petitioner indicated that the child's family was intimidated/threatened into not submitting the necessary paperwork. However, at times during the hearing, Petitioner

also testified that the child's family did submit paperwork for her to be enrolled as the child's CDC provider. (Petitioner Testimony).

Pursuant to BAM 600, all clients have the right to request a hearing. The following people have authority to exercise this right by signing a hearing request: an adult member of the eligible group; or the client's authorized hearing representative (AHR). BAM 600, March 1, 2021, p. 2. Petitioner does not assert that she was a CDC client. Rather, Petitioner asserts that she was the CDC provider. Therefore, Petitioner could not be an adult member of the eligible CDC group. Further, there was no evidence that Petitioner is the AHR for a CDC client.

Additionally, BEM 704 states that neither child care providers nor CDC recipients are entitled to administrative hearings based on a provider's denial or closure. BEM 704, October 1, 2022.

Accordingly, there is no jurisdiction to address payment to Petitioner as a CDC provider. Petitioner is not an adult member of an eligible CDC group nor is she the AHR for a CDC client. Further, even if there had been a CDC provider denial or closure regarding Petitioner, CDC providers are not entitled to administrative hearings based on a provider's denial or closure. Therefore, the CDC portion of Petitioner's hearing request must be **DISMISSED**.

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.

Before authorizing the department's portion of the cost of services, the Department is to verify that the copayment, shortfall, and contribution have been paid by the client or will be paid by another agency. ERM 208, December 1, 2022, p. 5.

On [REDACTED] 2023, Petitioner applied for SER. (Exhibit A, pp. 39-51). On February 28, 2023, a SER Decision Notice was issued to Petitioner approving SER in the amount of \$794.34 for heat; \$376.00 for non-heat electricity; and \$125.71 for water or sewage with a copayment of \$141.48 that Petitioner would be responsible to pay before the Department will release the payment for Consumers and the rest of the water bill. (Exhibit A, pp. 52-55).

Petitioner testified that she did not have the money for the SER copayment. The Department referred Petitioner to other agencies, but they have no funding to assist Petitioner. (Petitioner Testimony).

The ERM 208 policy requires the Department to verify that the SER client's copayment, shortfall, and contribution have been paid before authorizing the Department's portion of

the cost of services. There is no authority for the local office, nor for this Administrative Law Judge, to change or make any exception to the Department policy. The Department is properly requiring verification that Petitioner's required copayment, shortfall, and contribution has been paid before authorizing the Department's portion of the cost of services. Accordingly, the Department's determination regarding SER is upheld.

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.

The Department must review the effect on eligibility whenever the client reports a change in circumstances. BAM 105, April 1, 2022, p. 19. Bridges will evaluate each change reported and entered in the system to determine if it affects eligibility. BAM 220, October 1, 2022, p. 1.

On [REDACTED] 2023, Petitioner applied for SER. (Exhibit A, pp. 39-51). The updated information provided for the SER application was utilized to redetermine eligibility for FAP. (Exhibit A, p. 1; HF Testimony). On February 28, 2023, a Notice of Case Action was issued to Petitioner approving FAP for a household of three with a benefit amount of \$122.00 for the period of March 1, 2023 to April 30, 2023. The notice indicated this was an increase in the monthly FAP benefit amount for Petitioner. (Exhibit A, pp. 34-38).

Petitioner asserted that she did not receive FAP benefits in March 2023. (Petitioner Testimony). However, the HF reviewed the case and credibly testified that FAP benefits in the amount of \$122.00 were issued to Petitioner in March 2023 and April 2023. (HF Testimony).

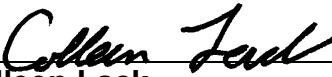
Overall, the evidence indicates that the Department properly redetermined eligibility for FAP based on the updated information provided for the SER application. Further, the Department confirmed that that FAP benefits in the amount of \$122.00 were issued to Petitioner in March 2023 and April 2023. Accordingly, the Department's determination regarding FAP is upheld.

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 determined Petitioner's eligibility for SER and FAP.

DECISION AND ORDER

Accordingly, the CDC portion of Petitioner's hearing request is **DISMISSED**. Further, the Department's decisions regarding SER and FAP are **AFFIRMED**.

CL/ml



Colleen Lack
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
Elisa Daly
411 East Genesee
Saginaw, MI 48607
**MDHHS-Saginaw-
Hearings@michigan.gov**

Interested Parties

BSC2
J McLaughlin
E Holzhausen
M Holden
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MOAHR

Via First Class Mail :

Petitioner

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[REDACTED]
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