



STATE OF MICHIGAN

GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: April 27, 2023
MOAHR Docket No.: 23-001632
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Linda Jordan

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 hearing was held on April 19, 2023. Petitioner appeared and represented herself. The Michigan Department of Health and Human Services (MDHHS or Department) did not appear.

ISSUES

1. Did MDHHS properly terminate Petitioner's Food Assistance Program (FAP) benefits?
2. Did MDHHS properly deny Petitioner's applications for State Emergency Relief (SER) to prevent eviction?

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 an ongoing recipient of FAP benefits.
2. On November 22, 2022, MDHHS sent Petitioner a Verification Checklist (VCL) requesting proof of self-employment (Exhibit 1, p. 25). The VCL indicated that proofs were due by December 2, 2022 (Exhibit 1, p. 25). MDHHS terminated Petitioner's FAP benefits due to an alleged failure to return the requested verifications by the deadline (Exhibit 1, p. 1).
3. On December 9, 2022, Petitioner applied for SER for \$4,613.00 to prevent eviction (Exhibit 1, pp. 18-20).

4. On December 22, 2022, MDHHS issued a State Emergency Relief Decision Notice indicating that Petitioner verbally withdrew her request for SER services (Exhibit 1, p. 28).
5. On January 9, 2023, Petitioner applied for SER (Exhibit 1, p. 11). Petitioner requested \$4,400.00 to prevent eviction (Exhibit 1, p. 13). Petitioner reported that she received employment income from [REDACTED] (Exhibit 1, p. 14). Petitioner reported no self-employment income (Exhibit 1, p. 14)
6. On or about January 13, 2023, MDHHS received information from the Work Number by Equifax showing that Petitioner was Employed at [REDACTED] (Employer), beginning in October 2022 (Exhibit 1, pp. 9-10).
7. On January 23, 2023, MDHHS sent Petitioner a State Emergency Relief (SER) decision notice indicating that her request for SER services had been denied because the total amount of her income/asset copayment and her shortfall (unmet required payments) was equal to or greater than the amount needed to resolve the emergency (Exhibit 1, p. 31).
8. On March 21, 2023, Petitioner filed a Request for Hearing to dispute the termination of her FAP benefits and denial of her applications for SER (Exhibit 1, p. 4).

CONCLUSIONS OF LAW

MDHHS did not appear at the hearing. Accordingly, this decision is based on Petitioner's testimony and documents contained in the Hearing Packet that MDHHS prepared for the hearing, which were offered into evidence by Petitioner and admitted as Petitioner's Exhibit 1.

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)

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. MDHHS 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, MDHHS terminated Petitioner's FAP benefits for an alleged failure to return request information regarding her self-employment income.

MDHHS is required to obtain verification when it is required by policy or information is unclear or incomplete. BAM 130 (January 2022), p. 1. Verification is usually required at application/redetermination and when a reported change affects eligibility or benefit level. *Id.* To obtain verification, MDHHS must tell the client what verification is required, how to obtain it and the due date. *Id.*, p. 3. The client must obtain the requested verification, but the local office must assist the client if they need and request help. *Id.*, p. 3. If neither the client nor the local office can obtain verification despite a reasonable effort, MDHHS must use the best available information. *Id.* If no evidence is available, MDHHS must use its best judgement. *Id.* MDHHS allows the client ten calendar days to provide the requested verification. *Id.*, p. 7. Verifications are considered timely if received by the date that they are due. *Id.* MDHHS sends a negative action notice when the client indicates a refusal to provide the requested verification, or the time period given on the VCL has lapsed and the client has not made a reasonable effort to provide it. *Id.*

Petitioner testified that she complied with MDHHS' verification request and informed MDHHS that she was no longer self-employed and that she only had the employment income at Employer. MDHHS did not appear at the hearing to testify regarding the verification issue. No evidence was introduced to show that Petitioner had unreported self-employment income or that Petitioner failed to make a reasonable effort with MDHHS' verification request. Based on the limited record, MDHHS failed to satisfy its burden of proving that it acted in accordance with Department policy when it terminated Petitioner's FAP benefits.

The State Emergency Relief (SER) Program

SER is established by the Social Welfare Act, MCL 400.1-.119b. MDHHS administers SER pursuant to MCL 400.10 and Mich Admin Code, R 400.7001-.7049.

In this case, MDHHS alleged that Petitioner withdrew the December 9, 2022 SER application, and denied the January 9, 2023 SER application because the total amount of her income/asset copayment and her shortfall (unmet required payments) was equal to or greater than the amount needed to resolve the emergency. Petitioner denied withdrawing the December 9, 2022 SER application and argued that MDHHS calculated her income improperly when denying the January 9, 2023 SER application.

SER assists individuals and families resolve or prevent homelessness by providing money for rent, security deposit and moving expenses. ERM 303 (October 2022), p. 1. Provided that an applicant meets all eligibility requirements, MDHHS is authorized to approve any combination of moving expenses, security deposit, first month's rent and rent arrearage. *Id.* In order to qualify for relocation services, the applicant must be homeless or in danger of being homeless. *Id.*, pp. 1-3. The SER group must also show that the rental obligation meets the criteria for housing affordability specified in ERM 207. MDHHS can only authorize SER relocation services if the SER group has sufficient income to meet ongoing housing expenses. ERM 207 (October 2020), p. 1. MDHHS must deny an application for SER relocation services if the total housing obligation exceeds 75% of the group's total net countable income. *Id.*

Here, Petitioner initially applied for SER for funds to prevent eviction on December 9, 2022 (Exhibit 1, p. 18). On December 22, 2022, MDHHS issued a State Emergency Relief Decision Notice indicating that Petitioner verbally withdrew her request for SER services (Exhibit 1, p. 28). At the hearing, Petitioner testified that she did not verbally withdraw her request, and further testified that she was still facing eviction and had an ongoing court case. Petitioner's testimony was credible and MDHHS did not appear at the hearing to provide evidence to the contrary. Thus, MDHHS improperly determined that Petitioner withdrew her December 9, 2022 request for SER services.

Regarding the second SER application submitted on January 9, 2023, the record shows that it was also a request for funds to prevent eviction stemming from the same housing emergency. However, some of Petitioner's information was different and the amount requested increased. MDHHS should have reviewed the second application for updates in Petitioner's situation and processed her request accordingly.

Regarding the reason for the denial, MDHHS did not appear at the hearing or introduce evidence to demonstrate that it properly determined that the total amount of her income/asset copayment and her shortfall (unmet required payments) was equal to or greater than the amount needed to resolve the emergency. Petitioner argued that MDHHS did not calculate her income properly because it was considering her previously reported self-employment income, which had ended. If an eligibility factor was unclear, MDHHS should have requested information from Petitioner, pursuant to policy. See *generally*, ERM 103 (October 2022), p. 6.

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 MDHHS failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Petitioner's SER applications.

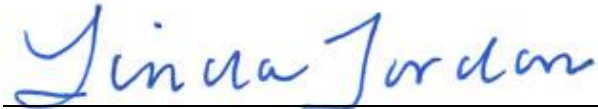
DECISION AND ORDER

Accordingly, MDHHS' decision is **REVERSED**.

MDHHS 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:

1. Reinstate Petitioner's FAP case and redetermine her eligibility for FAP, from the date of the most recent termination ongoing, requesting additional information from Petitioner, if necessary;
2. Issue FAP supplements to Petitioner for any FAP benefits that she was eligible to receive but did not, from the date of the most recent termination ongoing;

3. Reregister and reprocess Petitioner's December 9, 2022 SER Application, reviewing the January 9, 2022 SER Application for updates and requesting additional information from Petitioner, if needed.
4. Issue supplements to Petitioner or her landlord for SER benefits she was eligible to receive but did not from December 9, 2022 ongoing; and
5. Notify Petitioner of its decision(s) in writing.



LJ/tm

Linda Jordan
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

Denise McCoggle
Wayne-Greydale-DHHS
27260 Plymouth Rd
Redford, MI 48239

**MDHHS-Wayne-15-Greydale-
Hearings@michigan.gov**

Interested Parties

M. Holden
D. Sweeney
J. McLaughlin
E. Holzhausen
BSC4

Via-First Class Mail :

Petitioner

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