



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: June 29, 2023
MOAHR Docket No.: 23-002789
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 June 20, 2023 via teleconference. Petitioner appeared and represented herself. Tenisha Andrews, Eligibility Specialist, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department).

ISSUES

1. Did MDHHS properly determine Petitioner's Food Assistance Program (FAP) benefit rate?
2. Did MDHHS properly deny Petitioner's application 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 was an ongoing recipient of FAP benefits.
2. On April 27, 2023, Petitioner applied for SER for assistance with relocation expenses (Exhibit A, p. 1).
3. On May 5, 2023, MDHHS sent Petitioner a Notice of Case Action indicating that her FAP benefit rate for a household of five decreased to \$778.00, effective June 1, 2023 (Exhibit A, p. 29). The FAP benefit rate was based on \$1,392.00 in unearned income (Exhibit A, p. 31).

4. On May 9, 2023, MDHHS sent Petitioner a State Emergency Relief Decision Notice indicating that her request for SER for assistance with relocation expenses was denied (Exhibit A, p. 6). The reason for the denial was that Petitioner's income/asset copayment was equal to or greater than the amount needed to resolve the emergency (Exhibit A, p. 6).
5. On May 16, 2023, Petitioner filed a Request for Hearing to dispute the denial of her application for SER and to dispute her FAP benefit rate (Exhibit A, pp. 3-5).

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).

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. 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 reduced Petitioner's FAP benefit amount based on its calculation of Petitioner's household income. Petitioner disputed the income calculation.

To determine whether MDHHS properly calculated Petitioners' FAP benefit amount, all countable earned and unearned income available to the client must be considered. BEM 500 (April 2022), pp. 1-5. MDHHS determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Prospective income is income not yet received but expected. BEM 505 (October 2022), p. 1. For the purposes of FAP, MDHHS must convert income that is received more often than monthly into a standard monthly amount. BEM 505, pp. 8-9. MDHHS converts stable and fluctuating income received more often than monthly into a standard monthly amount by multiplying weekly income by 4.3, multiplying biweekly income by 2.15, or adding amounts received twice a month. *Id.*

For child support income. For child support income, MDHHS averages the past three calendar months unless changes are expected. BEM 505, p. 4. If there is variation in the past three months, MDHHS is required to discuss the pattern with the client to discern the best estimate. *Id.* MDHHS counts the gross amount of short and long-term disability payments and unearned income. BEM 503 (January 2023), p. 33.

At the hearing, MDHHS testified that Petitioner received \$1,392.00 per month in unearned income based on her receipt of short-term disability and child support. There was no evidence of earned income. Regarding Petitioner's child support income, Petitioner testified that she had not received any child support income since February 27, 2023. MDHHS failed to introduce any evidence to the contrary and did not demonstrate that it averaged the past three calendar months to reach a standard amount, as required by policy.

Regarding Petitioner's short-term disability payments, Petitioner testified that the payments were time-limited. The record shows that Petitioner received short-term disability from [REDACTED] (Employer) (Exhibit A, p. 20). The documents provided by Petitioner show the following amounts;

From February 16, 2023 to March 15, 2023: \$ [REDACTED]
From March 16, 2023 to March 29, 2023: \$ [REDACTED]
From March 30, 2023 to March 30, 2023: \$ [REDACTED]
From March 31, 2023 to April 12, 2023: \$ [REDACTED]
From April 13, 2023 to April 19, 2023: \$ [REDACTED]
(Exhibit A, pp. 20-24).

Petitioner testified that she only received short-term disability for a period of three months, which would include February, March and April. If the disability payments stopped in April, it is unclear why MDHHS included the income in Petitioner's benefit calculation for June 2023 ongoing. If Petitioner's current and ongoing income was unclear, MDHHS should have requested additional information from Petitioner. Policy requires that MDHHS obtain verification when an eligibility factor is unclear, inconsistent, incomplete or contradictory. BAM 130 (January 2023), p. 1. There is no evidence that MDHHS requested additional information from Petitioner or attempted to contact Petitioner to resolve any discrepancies.

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 did not act in accordance with Department policy when it reduced Petitioner's FAP benefit amount.

State Emergency Relief (SER)

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.

Here, MDHHS denied Petitioner's request for SER relocation services because it determined that Petitioner's income/asset copayment was equal to or greater than the amount needed to resolve the emergency (Exhibit A, p. 6). Petitioner disputed the calculation of her income for SER and testified that she was still facing a housing crisis as of the date of the hearing.

SER assists individuals and families resolve or prevent homelessness by providing money for rent, security deposit and moving expenses. ERM 303 (October 2020), p. 1. Provided that an applicant meets all the eligibility requirements, and the issuance resolves the group's shelter emergency, 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.

At application, MDHHS is required to establish a SER countable income period and determine the applicant's net countable income. ERM 206 (November 2019), p. 1. The SER budget computation period is 30 days, which begins the date the local office receives the signed application. *Id.* MDHHS must verify and budget all non-excluded gross income the client expects to receive during the countable income period. *Id.* A group is eligible for non-energy SER services with respect to income if the total combined monthly net income that is received or expected to be received by all group members in the 30-day countable income period does not exceed the SER Income Need Standards for All Non-Energy Services. ERM 208 (December 2022), p. 1. Income that is more than the basic monthly income need standard for the number of group members must be deducted from the cost of resolving the emergency. *Id.* This is the income copayment. *Id.*

Here, MDHHS alleged that Petitioner's application for SER was denied because the income/asset copayment was equal or greater than the amount needed to resolve the emergency. However, MDHHS did not present a SER budget or adequately explain how it determined Petitioner's countable income for SER, as required by ERM 206. Nor was there any evidence that MDHHS requested verification of Petitioner's income or that it contacted Petitioner to clarify her circumstances of eligibility.

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 request for SER services.

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. Redetermine Petitioner's FAP benefit rate from June 1, 2023 ongoing, requesting additional information from Petitioner, if necessary;
2. Issue supplements to Petitioner for any FAP benefits that she was eligible to receive, but did not, from June 1, 2023 ongoing;

3. Reregister and reprocess Petitioner's April 27, 2023 SER Application, 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 April 27, 2023 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
Richard Latimore
Wayne-Conner-DHHS
4733 Conner
Detroit, MI 48215
**MDHHS-Wayne-57-
Hearings@michigan.gov**

Interested Parties

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D. Sweeney
J. McLaughlin
E. Holzhausen
BSC4

Via-First Class Mail :

Petitioner

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