



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
SUZANNE SONNEBORN
EXECUTIVE DIRECTOR

MARLON I. BROWN, DPA
ACTING DIRECTOR

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

Date Mailed: January 10, 2024
MOAHR Docket No.: 23-007626
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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 January 8, 2024, via conference line. Petitioner was present and was unrepresented. The Department of Health and Human Services (Department) was represented by Danielle Moton, Assistance Payments Worker.

ISSUES

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

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 [REDACTED], 2023, Petitioner submitted an application for SER benefits for assistance with home repairs and energy services (Exhibit A, pp. 19-25).
2. On September 27, 2023, the Department sent Petitioner a State Emergency Relief Decision Notice informing her that her SER application was denied for her failure to submit the requested verifications (Exhibit A, pp. 8-10).

3. On [REDACTED], 2023, Petitioner applied for FAP benefits.
4. On October 22, 2023, Petitioner submitted verification of her income from employment.
5. Petitioner's household consisted of herself and her child.
6. On October 26, 2023, the Department reinstated and reprocessed Petitioner's [REDACTED] 2023 SER application.
7. On October 26, 2023, the Department sent Petitioner a State Emergency Relief Decision Notice informing her that the portion of the application for energy services was approved (Exhibit A, pp. 13-15).
8. On November 6, 2023, the Department sent Petitioner a Verification Checklist (VCL) requesting verification of the estimates for her home repairs, proof that her home was livable, and proof of home ownership related to the repair request portion of the [REDACTED] 2023 SER application (Exhibit A, pp. 16-17).
9. The Department denied Petitioner's application for SER benefits for home repairs for her failure to submit the requested verifications.
10. The Department approved Petitioner's FAP application and determined that Petitioner was eligible for FAP benefits in the amount of [REDACTED] per month.
11. Petitioner submitted a request for hearing disputing the Department's actions.

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 an application for FAP benefits. The Department determined that Petitioner was eligible for FAP benefits in the monthly amount of \$[REDACTED].

The Department presented a FAP budget to establish the calculation of Petitioner's FAP benefit amount (Exhibit A, p. 18).

All countable earned and unearned income available to the client must be considered in determining a client's eligibility for program benefits and group composition policies specify whose income is countable. BEM 500 (July 2017), pp. 1–5. The Department 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 2017), pp. 1-2. In prospecting income, the Department is required to use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month, discarding any pay if it is unusual and does not reflect the normal, expected pay amounts. BEM 505, pp. 5-6. A standard monthly amount must be determined for each income source used in the budget. BEM 505, pp. 7-8. Income received biweekly is converted to a standard amount by multiplying the average of the biweekly pay amounts by the 2.15 multiplier. BEM 505, pp. 7-9. Income received weekly is multiplied by a 4.3 multiplier. BEM 505, pp. 7-9. Income received twice per month is added together. BEM 505, pp. 7-9. An employee's wages include salaries, tips, commissions, bonuses, severance pay and flexible benefit funds not used to purchase insurance. The Department counts gross wages in the calculation of earned income. BEM 501 (January 2020), pp. 6-7.

Per the budget provided, the Department determined that Petitioner had a standard earned income amount of \$[REDACTED] per month. The Department testified that Petitioner submitted one pay statement from October 13, 2023, in the gross amount of \$[REDACTED], as she had just started employment. The Department testified that that Petitioner reported she is paid weekly. When multiplying Petitioner's gross pay from October 13, 2023, and multiplying by the 4.3 multiplier, it results in a standard monthly income of \$[REDACTED]. Therefore, the Department properly determined Petitioner's earned income. The Department also included \$[REDACTED] of unearned income. Petitioner did not dispute her unearned income.

The deductions to income on the net income budget were also reviewed. There was no evidence presented that Petitioner's group includes a senior/disabled/veteran (SDV) household member. BEM 550 (January 2017), pp. 1-2. Thus, the group is eligible for the following deductions to income:

- Dependent care expense.
- Excess shelter.
- Court ordered child support and arrearages paid to non-household members.
- Standard deduction based on group size.
- An earned income deduction equal to 20% of any earned income.

BEM 554 (January 2020), p. 1; BEM 556 (January 2020), p. 3.

The Department will reduce the gross countable earned income by 20 percent and is known as the earned income deduction. BEM 550 (January 2022), p.1. The Department

correctly determined Petitioner is entitled to an earned income deduction of \$353. Petitioner's FAP benefit group size of two justifies a standard deduction of \$198. RFT 255 (October 2022), p. 1. There was no evidence presented that Petitioner had any out-of-pocket dependent care or child support expenses. Therefore, the budget properly excluded any deduction for dependent care or child support expenses.

In calculating the excess shelter deduction of \$571, the Department stated that it considered Petitioner's verified housing expense of \$500 and that she was responsible for a monthly heating expense, entitling her to the heat/utility standard of \$680. BEM 554, pp. 14-15. The Department testified when calculating Petitioner's excess shelter amount, they added the total shelter amount and subtracted 50% of the adjusted gross income. Petitioner's excess shelter deduction was properly calculated at \$571 per month.

The FAP benefit group's net income is determined by taking the group's adjusted gross income and subtracting the allowable excess shelter expense. After subtracting the allowable deductions, the Department properly determined Petitioner's adjusted gross income to be \$[REDACTED]. Petitioner's adjusted gross income subtracted by the \$571 excess shelter deduction results in a net income of \$[REDACTED]8. A chart listed in RFT 260 is used to determine the proper FAP benefit issuance based on the net income and group size. Based on Petitioner's net income and group size, Petitioner's FAP benefit issuance is \$[REDACTED]. Therefore, the Department properly calculated Petitioner's FAP benefit amount.

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 submitted an application for SER benefits for non-energy home repairs to her roof and for energy services. The Department approved Petitioner's application for energy services. The Department testified that the portion of Petitioner's SER application for the request for home repairs was denied for her failure to submit requested verifications. On November 6, 2023, the Department sent Petitioner a VCL requesting verification of the estimates for her home repairs, proof that her home was livable and proof of home ownership related to the repair request. Proofs were due by November 13, 2023.

Applicants may file an SER application in any county in Michigan. ERM 103 (October 2017), p. 1. At application, Clients must be informed of all verifications that are required and where to return verifications. ERM 103, p. 7. The due date is eight calendar days beginning with the date of application. ERM 103, p. 7. If the application is not processed on the application date, the deadline to return verifications is eight calendar days from the date verification is requested. ERM 103, p. 7. The Department will use the DHS-3503, SER Verification Checklist, to request verification and to notify the client of the

due date for returning the verifications. ERM 103, p. 7. The Department sends a negative action notice when: the client indicates a refusal to provide a verification OR the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130 (April 2017), p. 7.

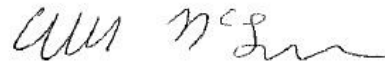
The Department testified that Petitioner did not submit any of the verifications requested. Petitioner stated that she has submitted numerous repair estimates and copies of her deed. However, Petitioner's testimony as to when she submitted the verifications was unclear. The Department stated that Petitioner has submitted multiple SER applications for repairs to her roof as far back as January 2023. The Department testified that it reviewed Petitioner's electronic case file from July 2023, through the VCL due date of November 13, 2023, and could not find the submission of any repair estimates or a copy of her deed.

The Department provided credible testimony that Petitioner did not submit the requested verifications. Therefore, the Department acted in accordance with policy when it denied Petitioner's 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 determined Petitioner's FAP eligibility and denied her SER application. Accordingly, the Department's decisions are **AFFIRMED**.

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
Tara Roland 82-17
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Interested Parties

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N. Denson-Sogbaka
B. Cabanaw
J. McLaughlin
E. Holzhausen
BSC4

Via-First Class Mail :

Petitioner

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